S. HRG. 100-769

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1989

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 4775

AN ACT MAKING APPROPRIATIONS FOR THE TREASURY DEPARTMENT, THE UNITED STATES POSTAL SERVICE, THE EXECUTIVE OFFICE OF THE PRESIDENT, AND CERTAIN INDEPENDENT AGENCIES, FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1989, AND FOR OTHER PURPOSES

Administrative Conference of the United States
Advisory Commission on Intergovernmental Relations
Advisory Committee on Federal Pay
Committee for Purchase From the Blind and Other Severely Handicapped
Department of the Treasury
Executive Office of the President
Federal Election Commission
Federal Labor Relations Authority
General Services Administration
National Archives and Records Administration
Nondepartmental witnesses
Office of Personnel Management
U.S. Merit Systems Protection Board
U.S. Postal Service
U.S. Tax Court

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TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1989

FRIDAY, FEBRUARY 26, 1988

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:32 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Mikulski, and Domenici.

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

STATEMENT OF WILLIAM VON RAAB, COMMISSIONER

ACCOMPANIED BY:

- GERALD HILSHER, DEPUTY ASSISTANT SECRETARY, LAW ENFORCEMENT
- JILL KENT, ACTING ASSISTANT SECRETARY, MANAGEMENT
- WILLIAM ROSENBLATT, ASSISTANT COMMISSIONER, ENFORCEMENT
- SAMUEL BANKS, ASSISTANT COMMISSIONER, INSPECTION AND CONTROL
- ALLAN MARTIN, ASSISTANT CHIEF COUNSEL
- EUGENE MACH, ASSISTANT COMMISSIONER, COMMERCIAL OPERATIONS
- WILLIAM RILEY, COMPTROLLER

OPENING REMARKS

Senator DECONCINI. The subcommittee will come to order.

Today the Subcommittee on Treasury, Postal Service, and General Government is beginning its regular fiscal year 1989 budget hearings by receiving testimony from the U.S. Customs Service.

This morning we are pleased to have with us the distinguished Commissioner of Customs, William von Raab. Commissioner von Raab will be accompanied by Mr. Hilsher, sitting in for Frank Keating, Assistant Secretary of the Treasury for Enforcement; and Ms. Jill Kent, Acting Assistant Secretary of the Treasury for Management.

We welcome you both.

Mr. Commissioner, I just want the record to show that I think you have served this country exceptionally well in the position of Commissioner of Customs, and have been a very straightforward, hard-talking, hard-driving law enforcement officer for this administration, and I compliment you for that.

The Customs Service, for the first time in a long time, is not faced with defending a budget that would decimate law enforcement or the commercial side of the agency. It has been a long struggle, but it looks as though the President may have gotten the message—along with OMB and others—that this is a critical agency, both for its drug enforcement mission and for its commercial activities.

I am also delighted that the President has apparently seen the light with regard to the Customs air program.

Nevertheless, we do have questions about how Customs is managing the funds that we provided in fiscal year 1988, and what it plans to do with its budget next year.

Commissioner, we are delighted to have you here. You may proceed. If you have a full statement, it will appear in the record without objection, and if you would summarize it for us please.

Commissioner VON RAAB. Thank you, Mr. Chairman. It is always a pleasure to appear before your committee.

PREPARED STATEMENT

I do have a rather lengthy statement which I think the committee will find quite useful. I would ask that we submit it for the record.

Senator DECONCINI. It will so appear.

[The statement follows:]

STATEMENT OF WILLIAM VON RAAB

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, THANK YOU FOR THIS OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO PRESENT THE U.S. CUSTOMS SERVICE FY 1989 APPROPRIATIONS REQUEST. WE ARE REQUESTING $966,903,000 AND 16,099 DIRECT AVERAGE POSITIONS FOR SALARIES AND EXPENSES AND $142,262,000 FOR OPERATIONS AND MAINTENANCE OF THE AIR PROGRAM. CUSTOMS IS ALSO REQUESTING AN APPROPRIATION OF $10,000,000 FOR THE FORFEITURE FUND AND $1,588,000 AND 22 DIRECT AVERAGE POSITIONS TO RECOVER ANTICIPATED REIMBURSEMENTS FOR SERVICES AT SMALL AIRPORTS.

CUSTOMS SALARIES AND EXPENSES FY 1989 APPROPRIATION REQUEST REPRESENTS A NET INCREASE OF $903,000 FROM THE CONTINUING RESOLUTION PASSED BY CONGRESS AND SIGNED BY THE PRESIDENT FOR FY 1988. THE FY 1989 OPERATIONS AND MAINTENANCE APPROPRIATION REQUEST REPRESENTS A NET INCREASE OF $262,000. THESE REQUESTS WILL ALLOW US TO FUND THE IMPROVED LEVEL OF THE STAFFING, EQUIPMENT, AND PROGRAMS ESTABLISHED IN THE FY 1988 CONTINUING RESOLUTION.

MAJOR ACCOMPLISHMENTS

IN ITS CAPACITY AS A REVENUE COLLECTION AGENCY UNDER THE TARIFF ACT OF 1930, THE CUSTOMS SERVICE COLLECTED $15.7 BILLION IN FY 1987. THIS TOTAL IS PROJECTED TO REACH $17.8 BILLION IN FY 1989.

CUSTOMS CLEARED 310,223,000 PERSONS AND PROCESSED 8,023,000 MERCHANDISE ENTRIES IN FY 1987, UP 9.6 PERCENT OVER THE PRIOR YEAR.

AMONG OTHER THINGS, CUSTOMS ALSO SEIZED 87,898 POUNDS OF COCAINE, A 67 PERCENT INCREASE OVER THE PRIOR YEAR, 639 POUNDS OF HEROIN, 1,701,150 POUNDS OF MARIJUANA, AND 1,073 POUNDS OF HASHISH.

CUSTOMS IS AN AGENCY WITH TWO DISTINCT MISSIONS. THEY ARE ENFORCEMENT, INCLUDING DRUG ENFORCEMENT, CHILD PORNOGRAPHY, AND OVERSIGHT OF NUMEROUS OTHER PROVISIONS OF THE TARIFF ACT OF 1930, AND COMMERCIAL, WITH PRIMARY EMPHASIS ON THE REGULATION OF THE FLOW OF MERCHANDISE ACROSS OUR BORDERS AND THE COLLECTION OF DUTIES AND OTHER CHARGES ON THAT FLOW.

FIRST, I WILL ADDRESS THE CUSTOMS ENFORCEMENT EFFORTS. THE UNITED STATES IS IN A WAR WITH ORGANIZED CRIME AND OTHER SMUGGLING ORGANIZATIONS THAT HAVE AN ALMOST ENDLESS SUPPLY OF MONEY AND NO AVERSION TO MURDER AS A TOOL OF THE TRADE. CUSTOMS OFFICERS AND OFFICERS FROM OTHER ENFORCEMENT AGENCIES HAVE DIED IN THE LINE OF DUTY FIGHTING THE DRUG WAR. IN COLOMBIA, JUDGES AND CABINET OFFICIALS, INCLUDING TWO ATTORNEYS GENERAL, HAVE BEEN MURDERED IN THE LAST FOUR YEARS FOR TAKING A STAND AGAINST THE DRUG INDUSTRY. THE FEDERAL GOVERNMENT IS ATTACKING THIS PROBLEM THROUGH INTERNATIONAL DIPLOMACY, INTERDICTION AT OUR BORDERS, AND IN THE NATION'S CLASSROOMS. THE CUSTOMS SERVICE HAS BEEN GIVEN THE TASK OF LEADING THE FEDERAL DRUG INTERDICTION EFFORT.

AIR PROGRAM

CUSTOMS IS STRENGTHENING ITS FIXED AIR SMUGGLING DETECTION NET IN THE SOUTHEAST BY INSTALLING AEROSTATS IN THE TURKS AND CAICOS ISLANDS AND GEORGETOWN, BAHAMAS TO AUGMENT THE AEROSTAT ALREADY OPERATING AT GRAND BAHAMA ISLAND.

IN ACCORDANCE WITH AN AGREEMENT BETWEEN COAST GUARD AND CUSTOMS, CONTROL OF CERTAIN SOUTHEASTERN DETECTION RESOURCES WILL BE TURNED OVER TO THE U.S. COAST GUARD IN FY 1989.

ALONG THE SOUTHWEST BORDER, A FIXED AIR SMUGGLING DETECTION NET IS BEING ESTABLISHED THROUGH DEPLOYMENT OF SIX RADAR EQUIPPED AEROSTATS. ONCE INSTALLED, THESE AEROSTATS WILL PROVIDE A LOW LEVEL AIRCRAFT RADAR DETECTION CAPABILITY THAT HAS LONG BEEN SORELY NEEDED. CUSTOMS WILL ALSO EXPLORE THE FEASIBILITY OF OVER-THE-HORIZON RADAR (OTH). OTH COULD SUBSTANTIALLY ENHANCE OUR CAPABILITY TO DETECT DRUG SMUGGLERS, WHICH COULD RESULT IN MORE ARRESTS AND SEIZURES. MOBILE DETECTION CAPABILITY THROUGH DEPLOYMENT OF LONG-RANGE SURVEILLANCE AIRCRAFT WILL COMPLEMENT THE LAND BASED AEROSTATS. THE CONSTRUCTION OF COMMAND, CONTROL, COMMUNICATIONS AND INTELLIGENCE (C3I) CENTERS IN MIAMI, FLORIDA AND RIVERSIDE, CALIFORNIA WILL INTEGRATE THESE DETECTION RESOURCES AND PROVIDE FOR TACTICAL COORDINATION OF AIR INTERDICTIONS. CUSTOMS WILL CONTINUE TO COORDINATE ITS INTELLIGENCE EFFORTS WITH THE DRUG ENFORCEMENT ADMINISTRATION (DEA), SO AS TO RECEIVE THE BENEFIT OF DEA'S UNIQUE RESOURCES.

AIRCRAFT CURRENTLY OPERATED BY CUSTOMS INCLUDE HIGH SPEED JET INTERCEPTORS EQUIPPED WITH RADAR AND INFRARED DETECTION SENSORS, LONG-RANGE TRACKERS, HIGH SPEED HELICOPTERS, SINGLE AND MULTI-ENGINE SUPPORT AIRCRAFT, AND P-3A AIRBORNE DETECTION PLATFORMS. AIRCRAFT ARE OBTAINED THROUGH PURCHASE, LEASE, OR MILITARY LOAN AND MODIFIED TO MEET CUSTOMS SPECIFICATIONS. IN ADDITION, BY THE END OF FY 1988, CUSTOMS EXPECTS DELIVERY OF ONE P3-AEW AIRCRAFT AND SEVEN NOMAD AIRCRAFT TO BE USED AS MARINE TARGET DETECTION PLATFORMS.

THE FOLLOWING IS A BREAKDOWN OF THE CURRENTLY ASSIGNED CUSTOMS AIRCRAFT:

AIRCRAFT TYPE	TOTAL
P-3A	4
E-2C	2
CITATION II	6
PIPER CHEYENNE IIIA (CHET)	8
BEECHCRAFT KING AIR (B200)	10
BEECHCRAFT KING AIR (E-90)	1
MISCELLANEOUS SINGLE ENGINE	6
MISCELLANEOUS TWIN ENGINE	30
BLACK HAWK HELICOPTER UH-60A	12
OTHER HELICOPTERS	8
TOTAL	87

STATE, LOCAL, FEDERAL COOPERATION

CUSTOMS EXPERIENCE SHOWS THAT THE BEST USE OF GOVERNMENT INTERDICTION RESOURCES IS IN JOINT EFFORTS WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES. TOWARDS THIS END, CUSTOMS HAS UNDERTAKEN SEVERAL ONGOING JOINT INITIATIVES WITH STATE AND LOCAL ENFORCEMENT AGENCIES. THE BLUE LIGHTNING STRIKE FORCE IN THE SOUTHEASTERN UNITED STATES, INITIATED IN EARLY 1985, AND THE "ALLIANCE" PLAN CONTAINING OPERATION BLUE FIRE FOR THE SOUTHWEST BORDER ARE PROVING THAT SUPERIOR RESULTS CAN BE OBTAINED FROM A COOPERATIVE ENFORCEMENT EFFORT.

THE JOINT EFFORT BETWEEN CUSTOMS AND THE DRUG ENFORCEMENT ADMINISTRATION IN NEW YORK, KNOWN AS JNSU, OR THE JFK NARCOTICS SMUGGLING UNIT CONTINUES TO MAKE PROGRESS AGAINST CONSPIRACIES TO

SMUGGLE NARCOTICS THROUGH THE NEW YORK AND NEW JERSEY PORTS. SIMILAR JOINT EFFORTS ARE BEING CONDUCTED IN SAN DIEGO.

COOPERATION WITH PRIVATE CARRIERS:

CUSTOMS HAS INVOLVED PRIVATE BUSINESS IN AN EFFORT TO REDUCE NARCOTICS SMUGGLING THROUGH THE LEGITIMATE TRADE. INTERNATIONAL AIR AND SEA CARRIERS HAVE SIGNED AGREEMENTS WITH US TO BETTER POLICE THEIR PLANES AND VESSELS. AIRPORT SERVICE COMPANIES ARE WORKING WITH US TO IMPROVE SECURITY IN AND AROUND AREAS WHERE INTERNATIONAL FLIGHTS ARRIVE AND CARGO IS HANDLED. AIR CARRIERS OPERATING FROM HIGH-RISK NARCOTICS SOURCE COUNTRIES ARE IMPLEMENTING SPECIAL SECURITY AND SCREENING TECHNOLOGY TO INCLUDE X-RAYS, SCALES, AND CLOSED-CIRCUIT TV, ALL OF WHICH CAN BE MONITORED FROM REMOTE LOCATIONS. IMPORTERS ON THE SOUTHWEST BORDER ARE HELPING TO SECURE FACILITIES WHERE CUSTOMS INSPECTORS WILL BE ABLE TO DO A BETTER AND FASTER JOB CLEARING CARGO ARRIVING BY LAND FROM MEXICO. MOST IMPORTANTLY, THE CITIZENS OF THE UNITED STATES ARE WORKING WITH US BY COMING FORWARD TO REPORT DRUG SMUGGLING.

BE ALERT PROGRAM

WE HAVE ALSO EMBARKED ON A PROGRAM TO ENLIST CITIZENS IN OUR DRUG INTERDICTION EFFORTS. THE CIVIL AIR PATROL, WHICH IS AN ASSOCIATION OF VOLUNTEER PILOTS, HAS COME FORWARD TO FLY DRUG LOOK-OUT MISSIONS FOR US OFF THE COASTS OF MANY SOUTHERN STATES.

CUSTOMS HOT LINE (1-800-BE ALERT) HAS BEEN EXPANDED AND NOW OPERATES INTERNATIONALLY. IN ADDITION TO THE UNITED STATES, IT IS AVAILABLE IN BERMUDA, JAMAICA, AND THE BAHAMAS.

TECS II

IN NOVEMBER 1987, CUSTOMS OPENED THE NEW DATA CENTER, HOUSING THE TREASURY ENFORCEMENT COMMUNICATIONS SYSTEM II (TECS II), AT NEWINGTON, VIRGINIA. THIS SYSTEM CONTAINS INFORMATION ON PERSONS, VEHICLES, VESSELS AND AIRCRAFT ATTEMPTING TO ENTER THE COUNTRY FOR ILLEGAL PURPOSES. IT ALSO CONTAINS INFORMATION ON FUGITIVES AND STOLEN PROPERTY. THIS SYSTEM WILL GREATLY IMPROVE OUR ENFORCEMENT CAPABILITIES IN ALL AREAS.

MARINE PROGRAM

THE CUSTOMS MARINE PROGRAM PROTECTS THE SEA APPROACHES OF THE NATION'S BORDERS AND CONFRONTS THE MARINE SMUGGLING PROBLEM. CUSTOMS IS IMPROVING ITS MARINE INTERDICTION STRATEGY THROUGH EXPANDED USE OF ITS AIR DETECTION ASSETS AND IMPROVED INTELLIGENCE.

THESE IMPROVEMENTS WILL RESULT IN INCREASING THE RISK AND COSTS TO SMUGGLERS, WHILE REDUCING THE LEVEL OF MARINE SMUGGLING BY PLEASURE CRAFT AND FISHING VESSELS.

THE BLUE LIGHTNING OPERATIONS CENTER (BLOC) IS CURRENTLY THE NERVE CENTER FOR MARINE INTERDICTION EFFORTS IN THE ATLANTIC SOUTHEAST. STATE AND LOCAL LAW ENFORCEMENT GROUPS HAVE ACCESS TO BLOC AND LEND MARINE RESOURCES AND MANPOWER TO OPERATIONS CONTROLLED BY THE CENTER. BLOC COLLECTS AND UTILIZES TACTICAL INFORMATION FROM CUSTOMS MARINE RADAR PLATFORM VESSELS, AEROSTATS, AND CUSTOMS AIRCRAFT. ALL OF THESE ARE CONTINUOUSLY UNDERGOING ENHANCEMENTS. BLOC THEN DIRECTS THE AVAILABLE RESOURCES TO THE INTERDICTION SITE IN ORDER TO EFFECT A LAW ENFORCEMENT ACTION.

CUSTOMS WILL USE NOMAD AIRCRAFT OUTFITTED WITH THE LATEST 360 DEGREE MARINE TARGET DETECTION RADAR AND INFRARED EQUIPMENT TO

PROVIDE ENHANCED DETECTION, SORTING, AND TRACKING CAPABILITIES COMBINED WITH MOBILITY AND FLEXIBILITY IN REACTING TO THE CHANGING THREAT.

IN ORDER TO BETTER MAINTAIN ITS VESSEL FLEET, CUSTOMS IS MOVING TOWARD THE USE OF A NATIONAL MARINE CONTRACT. ALL OF THE VARIOUS TYPES OF CUSTOMS VESSELS WILL BE IDENTIFIED IN A VESSEL REPORTING SYSTEM BY LOCATION, MAKE, SIZE, AGE, EQUIPMENT, AND ENGINE TYPE. MAINTENANCE STANDARDS AND PROCEDURES WILL BE DEVELOPED, A CONTRACT WRITTEN, BIDS SOLICITED, VENDORS EVALUATED AND A CONTRACT AWARDED.

FINANCIAL LAW ENFORCEMENT PROGRAM

CUSTOMS FINANCIAL ENFORCEMENT PROGRAM FOCUSES ON THE ILLEGAL MONEY FLOW AND PROCEEDS OF MAJOR CRIMINAL ENTERPRISES. THE OBJECTIVE IS TO INTERRUPT THAT FLOW, SEIZE THE ASSETS OF THE ENTERPRISE, AND FOLLOW TO SUCCESSFUL PROSECUTION THOSE INDIVIDUALS WHO DIRECT AND CONTROL THE ORGANIZATION.

THIS MISSION IS ACCOMPLISHED BY CUSTOMS FINANCIAL INVESTIGATIONS GROUPS LOCATED AT MOST MAJOR OFFICE LOCATIONS AND THROUGH TASK FORCE ENTITIES LOCATED THROUGHOUT THE UNITED STATES. ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCES AND AD HOC FINANCIAL INVESTIGATIONS TASK FORCES ARE COMPRISED OF CUSTOMS, DRUG ENFORCEMENT ADMINISTRATION, FEDERAL BUREAU OF INVESTIGATION, AND INTERNAL REVENUE SERVICE SPECIAL AGENTS AND INTELLIGENCE ANALYSTS.

THE PRIMARY FOCUS OF THE PROGRAM'S INVESTIGATIVE EFFORTS IS ON THOSE INDIVIDUALS AND ORGANIZATIONS INVOLVED IN DRUG SMUGGLING AND MONEY LAUNDERING SCHEMES WHICH CONSTITUTE VIOLATIONS OF THE BANK SECRECY ACT AND THE MONEY LAUNDERING CONTROL ACT OF 1986.

THE CURRENCY INVESTIGATIONS AND FINANCIAL INTELLIGENCE BRANCHES OF THE OFFICE OF ENFORCEMENT MAINTAIN AND ACT AS THE NATIONAL CLEARINGHOUSE FOR THE FINANCIAL DATA BASE (FDB). THE FDB CONTAINS INFORMATION GATHERED UNDER THE BANK SECRECY ACT, AND PROVIDES A VALUABLE SOURCE OF MONEY LAUNDERING INTELLIGENCE.

EXPORT ENFORCEMENT

CUSTOMS HAS IMPLEMENTED A COMPREHENSIVE PROGRAM TO COMBAT THE GROWING NATIONAL SECURITY THREAT OF ILLEGAL EXPORTS OF CRITICAL TECHNOLOGY TO THE SOVIET UNION AND OTHER HOSTILE GOVERNMENTS.

THE EXODUS PROGRAM HAS EVOLVED INTO A MAJOR INVESTIGATIVE EFFORT FOCUSING ON MANY AREAS AFFECTING DOMESTIC AND FOREIGN POLICY. THE EXODUS PROGRAM HAS ALSO BEEN EXPANDED TO INCLUDE EMBARGO AND SANCTIONS ENFORCEMENT. THE PROGRAM HAS ALSO BEGUN TO FOCUS ON NEW AREAS SUCH AS MISSILE TECHNOLOGY, ILLEGAL EXPORT OF TECHNICAL DATA, AND NUCLEAR TECHNOLOGY.

THE PROGRAM ALSO IS DIRECTED AGAINST THE THREAT OF ILLEGAL EXPORT OF ARMS AND MUNITIONS TO OTHER COUNTRIES OR TERRORIST GROUPS. INVESTIGATIONS CONDUCTED TO DATE HAVE REVEALED A BROAD PATTERN OF CRIMINAL ACTIVITY, AND INTELLIGENCE REPORTS INDICATE THAT THIS THREAT IS GROWING. IN CARRYING OUT THE EXPORT ENFORCEMENT EFFORT, CUSTOMS WORKS CLOSELY WITH A VARIETY OF GOVERNMENT ENFORCEMENT AND INTELLIGENCE AGENCIES.

INTERDICTION, INVESTIGATION, AND INTERNATIONAL COOPERATION ARE THE THREE BASIC ELEMENTS OF THE EXPORT ENFORCEMENT PROGRAM. THESE ELEMENTS PROVIDE A HIGHLY VISIBLE DETERRENT AND HAVE A VALUABLE COMPLIANCE IMPACT ON THE DOMESTIC HIGH TECHNOLOGY MANUFACTURING AND EXPORTING INDUSTRY. A PROACTIVE INVESTIGATIVE APPROACH TO DETECT AND

DISRUPT ILLEGAL CRIMINAL CONSPIRACIES BEFORE THEY CAN DAMAGE NATIONAL SECURITY HAS BEEN ADOPTED.

IN FY 1989, A VARIETY OF ENFORCEMENT INITIATIVES WILL CONTINUE TO BE IMPLEMENTED: ADDITIONAL UNDERCOVER OPERATIONS, IMPROVED LIAISON WITH THE INTELLIGENCE COMMUNITY, INCREASED FOREIGN COOPERATION, AND SUPPORT AND ASSISTANCE TO FOREIGN GOVERNMENTS IN THE CONDUCT OF THEIR OWN UNDERCOVER OPERATIONS DIRECTED AGAINST THESE VIOLATIONS.

CHILD PORNOGRAPHY

CUSTOMS IS CONTINUING ITS EFFORTS TO STOP THE IMPORTATION OF PORNOGRAPHY WHICH EXPLOITS ~~THE USE OF~~ CHILDREN. WE HAVE ESTABLISHED SPECIAL TEAMS THROUGHOUT THE COUNTRY TO INSPECT SUSPECT MAIL AND ARRANGE CONTROLLED DELIVERY WHENEVER POSSIBLE. RECENTLY WE HAVE BEEN REQUESTED BY CANADIAN CUSTOMS AND EXCISE TO SHARE OUR INTELLIGENCE INFORMATION TO AID THEM IN TRACKING DOWN MISSING CHILDREN WHO MAY BE USED IN PORNOGRAPHIC FILMS, VIDEOS, AND MAGAZINES. CUSTOMS IS EXPANDING ITS INTELLIGENCE DATA BASE OF SUSPECT COUNTRIES, COMPANIES, AND IMPORTERS. IN FY 1987, CUSTOMS INTRODUCED THE CHILD PORNOGRAPHY TIPLINE (1-800-843-5678) OPERATED IN CONJUNCTION WITH THE NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN. MORE THAN ONE HUNDRED LEADS HAVE BEEN RECEIVED TO DATE.

INSPECTION AND CONTROL

CUSTOMS INSPECTORS ARE STATIONED AT OUR AIR, LAND, AND SEAPORTS TO PROCESS PERSONS, CARGO, AND CARRIERS ENTERING THE UNITED STATES AND ENFORCE OUR TRADE LAWS TO PREVENT THE IMPORTATION OF PROHIBITED SUBSTANCES, PARTICULARLY NARCOTICS.

CUSTOMS INSPECTORS HAVE MAINTAINED ENFORCEMENT EFFECTIVENESS BY INTENSIVE SELECTIVE INSPECTIONS, MADE POSSIBLE BY THE INTRODUCTION OF COMPUTER-ASSISTED PROCESSING AND REDUCED PAPERWORK. THE RESULTS HAVE BEEN IMPROVED ENFORCEMENT, MORE EFFICIENT USE OF RESOURCES, AND BETTER FACILITATION FOR PASSENGERS AND CARGO. EXPANDED USE OF AUTOMATED SYSTEMS, SELECTIVITY, AND INNOVATIVE TECHNIQUES HAVE BEEN SUBSTITUTED FOR TRADITIONAL LABOR INTENSIVE PROCESSES, IMPROVING OVERALL EFFICIENCY WHILE HANDLING INCREASED WORKLOADS. PASSENGERS AT AT U.S. GATEWAY AIRPORTS ARE ROUTINELY PROCESSED WITHIN 45 MINUTES OF ARRIVAL DUE TO: RED/GREEN PROCESSING, WHICH FACILITATES THE RAPID EXAMINATION OF LOW-RISK PASSENGERS IN A "GREEN" PRIMARY LANE WHILE ALLOWING INSPECTORS TO FOCUS ON HIGH-RISK PASSENGERS IN A "RED" SECONDARY LANE; AND USE OF ROVING INSPECTORS THAT OPERATE OUTSIDE OF TRADITIONAL PASSENGER PROCESSING PROCEDURES. COMMERCIAL ENFORCEMENT AND FACILITATION HAS SIGNIFICANTLY IMPROVED DUE TO ACS SELECTIVITY, A SELECTIVE EXAMINATION AND LAW ENFORCEMENT TECHNIQUE THAT IDENTIFIES LOW-RISK SHIPMENTS FOR EXPEDITIOUS RELEASE AND HIGH-RISK SHIPMENTS FOR INTENSIVE EXAMINATION.

DURING THIS FISCAL YEAR, THE INSPECTIONAL PROGRAM WILL PLACE ADDED EMPHASIS ON IMPROVING ENFORCEMENT TECHNIQUES AT THE NATION'S BORDERS AS WELL AS SELECTIVITY SYSTEMS AT AIRPORTS AND SEAPORTS.

TO SUPPORT INSPECTIONAL ENFORCEMENT EFFORTS, OPERATIONAL ANALYSIS STAFFS (OAS'S) ARE IDENTIFYING INDIVIDUALS AND TRANSACTIONS WHICH POSE THE HIGHEST RISKS. THESE HIGH-RISK AREAS THEN RECEIVE GREATER ATTENTION. AS A RESULT OF INFORMATION CONVERTED INTO SPECIFIC TARGETS BY OAS, INSPECTORS AT PORT EVERGLADES SEIZED 8,700 POUNDS OF COCAINE IN TWO VESSEL CONTAINERS. THIS WAS THE LARGEST COCAINE SEIZURE EVER MADE IN THE UNITED STATES.

OTHER ENFORCEMENT AND SELECTIVITY EFFORTS INCLUDE: COOPERATIVE EFFORTS WITH FOREIGN CUSTOMS SERVICES WHICH PROVIDE PRE-ARRIVAL INFORMATION ON PASSENGERS FROM HIGH-RISK COUNTRIES, INCREASED EMPHASIS ON HIGH-RISK PRIVATE AIRCRAFT AND SMALL VESSELS, IMPROVED CANINE ENFORCEMENT, AND THE TESTING OF NEW EXAMINATION/ENFORCEMENT SYSTEMS FOR CARGO CONTROL.

DURING FISCAL YEAR 1987, CUSTOMS IMPROVED PASSENGER PROCESSING. WE CONTINUED TO PROMOTE THE RED/GREEN INSPECTION PROCESS AND "CITIZEN BYPASS" SYSTEM, WHICH REDUCES IMMIGRATION LINES BY PERMITTING U.S. CITIZENS TO PROCEED DIRECTLY TO CUSTOMS. CUSTOMS HAS INSTALLED AUTOMATED PASSPORT READERS AT EVERY MAJOR U.S. AIRPORT TO STREAMLINE TECS ENFORCEMENT COMPUTER CHECKS AND THEREBY, THE ENTIRE INSPECTION PROCESS. CUSTOMS IS NOW WORKING WITH AIRLINES AND AIRPORTS TO FURTHER CAPITALIZE ON THE LATEST TECHNOLOGY TO OPTICALLY READ INTERNATIONAL TRAVEL DOCUMENTS. THIS WILL FURTHER IMPROVE PASSENGER FACILITATION AND WILL ENHANCE ENFORCEMENT MEASURES.

THIS YEAR WE WILL ALSO ACHIEVE SUBSTANTIAL IMPROVEMENTS IN REDUCING WAITING TIMES ALONG THE SOUTHWEST BORDER. CUSTOMS WILL BE STAFFING AT LEAST 50 PERCENT OF ALL PROCESSING LANES DURING TRAFFIC PERIODS RATHER THAN SIMPLY MATCHING THE NUMBER OF LANES STAFFED BY IMMIGRATION PERSONNEL WHICH HAD BEEN THE PREVIOUS PRACTICE. FUNDING PROVIDED TO THE GENERAL SERVICES ADMINISTRATION IN THE FY 1988 BUDGET WILL BE USED TO ENHANCE FACILITIES FOR EXPEDITING TRAFFIC AND IMPROVING OFFICER SAFETY ALONG THE SOUTHWEST BORDER. DISCUSSIONS HAVE BEGUN WITH GENERAL SERVICES ADMINISTRATION OFFICIALS AND OTHER INSPECTION AGENCIES TO COORDINATE THE FACILITY MODIFICATIONS.

THE "LAND" INTERDICTION STRATEGY EMANATING FROM THE NATIONAL DRUG POLICY BOARD IS THE BASIS/STRUCTURE FOR INSPECTION AND CONTROL'S NARCOTICS INTERDICTION EFFORT. EACH CUSTOMS DISTRICT HAS FORMULATED AND IMPLEMENTED STRATEGIES (DISTRICT DRUG STRATEGIES) IN A NATIONWIDE PROGRAM TO FOCUS INSPECTIONAL RESOURCES AND SPECIAL OPERATIONS ON IDENTIFIED NARCOTICS THREATS PARTICULAR TO EACH DISTRICT. THE CHIEF INTERDICTION PRIORITY ADDRESSES LARGE LOADS OF COCAINE AND MARIJUANA IN CONTAINERS. THE CONTAINER STRATEGY EMPHASIZES A MULTIFACTOR APPROACH INCLUDING: REFINING AND CONVERTING RAW INTELLIGENCE GAINED IN NARCOTIC SOURCE AREAS INTO SPECIFIC TARGETS; UTILIZING ADVANCE TRADE INFORMATION FOR PRE-ARRIVAL IDENTIFICATION OF HIGH-RISK CONTAINERS; AND INCREASING THE NUMBER OF 100 PERCENT CONTAINER INSPECTIONS. SO FAR THIS FISCAL YEAR, THIS DEVELOPING STRATEGY HAS RESULTED IN MORE THAN 13,000 POUNDS OF COCAINE BEING SEIZED.

CANINE ENFORCEMENT PROGRAM

CUSTOMS CANINE ENFORCEMENT PROGRAM IS INTEGRATED IN THE OVERALL CUSTOMS ENFORCEMENT STRATEGY IN TWO AREAS: DRUG DETECTION AND INTERNATIONAL COOPERATION. CANINE ENFORCEMENT PROGRAM RESOURCES ARE PRIMARILY AIMED AT INTERDICTING NARCOTICS; HOWEVER, ITS TRAINING CENTER ASSISTS FOREIGN GOVERNMENTS AND STATE AND LOCAL GOVERNMENTS (WHEN POSSIBLE) IN DEVELOPING SIMILAR PROGRAMS WHICH CONTRIBUTE NOT ONLY TO INTERNATIONAL COOPERATION BUT ALSO TO SIGNIFICANT SEIZURES OF DRUGS DESTINED FOR THE UNITED STATES. WHILE THE OBJECTIVE IS NARCOTICS INTERDICTION, THE PROGRAM PROVIDES BENEFITS (INTERAGENCY/ INTERNATIONAL COOPERATION, PUBLIC EDUCATION, AND DETERRENCE) WHICH ALSO CONTRIBUTE TO THE FEDERAL GOAL OF INTERDICTING NARCOTICS AT OUR BORDERS.

CONTRABAND ENFORCEMENT TEAMS (CET)

WHILE THE STRATEGY OF USING CET TO CONDUCT MORE INTENSIVE NARCOTICS EXAMINATIONS OF HIGH-RISK PASSENGERS AND CARGO HAS BEEN SUCCESSFUL, FURTHER EFFORTS WILL FOCUS ON MORE SPECIFIC TARGETING OF LARGER, MORE SIGNIFICANT SEIZURES, ESPECIALLY IN CONTAINERIZED CARGO AND TRUCKS. THIS WILL BE ACCOMPLISHED THROUGH THE USE OF OPERATIONAL ANALYSIS STAFFS AND THREAT ASSESSMENTS, PRE-ARRIVAL MANIFEST INFORMATION, MORE THOROUGH CONTAINER AND AIRCRAFT SEARCHES, ADDED AIR AND VESSEL CARRIER AGREEMENTS, AND INTERNATIONAL COOPERATION.

THIS APPROACH IS INTENDED TO COUNTER THE MOBILITY OF THE SMUGGLERS AND TO CONCENTRATE ON THE LARGER QUANTITIES OF NARCOTICS TO BE FOUND IN CONTAINERIZED CARGO. CET ACCOUNTED FOR 38 PERCENT OF ALL THE COCAINE SEIZED BY CUSTOMS IN FISCAL YEAR 1987, UNDERSCORING THEIR EFFECTIVENESS IN COMBATING THE SHIFT OF COCAINE SMUGGLING TO CONTAINERIZED CARGO.

NEW INITIATIVES

CUSTOMS IS PURSUING TWO MAJOR INITIATIVES TO IMPROVE ENFORCEMENT. THESE INITIATIVES ARE: ZERO TOLERANCE AND PRIVATE AIRCRAFT ENFORCEMENT.

ZERO TOLERANCE

CUSTOMS IS CURRENTLY IN THE PROCESS OF DEVELOPING SEVERAL INITIATIVES TO PLACE MAXIMUM RESPONSIBILITY ON NARCOTICS USERS, ENTITLED ZERO TOLERANCE.

THE ZERO TOLERANCE PROGRAM WILL MAKE IT CLEAR TO ALL INTERNATIONAL TRAVELERS THAT CUSTOMS WILL NO LONGER TOLERATE THE SMUGGLING OF ILLICIT DRUGS ACROSS ITS BORDERS, REGARDLESS OF AMOUNT.

A WARNING HAS BEEN ADDED TO THE CUSTOMS DECLARATION STATING THAT ALL NARCOTICS VIOLATORS WILL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW.

WE ARE DRAFTING LEGISLATION TO ADDRESS THE SEIZURE OF VEHICLES CONTAINING HIDDEN COMPARTMENTS AND, DOUBLING THE ADMINISTRATIVE PENALTIES IN 19 U.S.C. 1497.

CUSTOMS IS NEGOTIATING WITH THE FEDERAL AVIATION ADMINISTRATION TO WORK TOGETHER IN DEVELOPING SYSTEMS TO DETER DRUG SMUGGLING VIA SMALL AIRCRAFT. INNOVATIONS WOULD INCLUDE: INTERNATIONAL PILOT'S LICENSES AND AIRCRAFT REGISTRATION, IMPROVED TRACKING OF OUTBOUND AIRCRAFT VIA TECS/FAA INTERFACE, SHARING OF ALL FAA AIRCRAFT REGISTRATION DOCUMENTS WITH CUSTOMS FOR LAW ENFORCEMENT DATA BASE CHECKS, PLACEMENT OF TRANSPONDERS ON ALL U.S. REGISTERED AIRCRAFT OPERATING IN FOREIGN OR INTERNATIONAL AIRSPACE, AND ESTABLISHMENT OF AN INTERNATIONAL RADIO FREQUENCY FOR ALL AIRCRAFT OPERATING IN INTERNATIONAL AIRSPACE.

PORT SECURITY

BECAUSE OF THREATS AGAINST INSPECTORS ALONG THE SOUTHWEST BORDER, SOME OF WHICH WERE CARRIED OUT, NINE PORTS WERE CLOSED IN FEBRUARY 1985. A SECURITY PLAN WAS IMPLEMENTED AND SEVEN OF THE NINE PORTS HAVE RETURNED TO NORMAL SERVICE. BASIC SECURITY AND PERSONAL ALARM SYSTEMS WERE INSTALLED AT ALL SOUTHERN LAND BORDER PORTS. FURTHER IMPROVEMENTS, SUCH AS VIDEO SURVEILLANCE AND RECORDING SYSTEMS, LIGHTING, BARRIERS AND SPEED BUMPS, AND IMPROVED COMMUNICATIONS, WERE INSTALLED IN ADDITION TO THE ACQUISITION OF PROTECTIVE VESTS FOR OUR INSPECTORS. OUR EFFORTS TO ENSURE THE SAFETY OF CUSTOMS OFFICERS AND THE

SECURITY OF OUR PORT FACILITIES WILL CONTINUE TO BE A HIGH PRIORITY.

COMMERCIAL ACTIVITIES

THE OMNIBUS BUDGET RECONCILIATION ACT OF 1986 (P.L. 99-509) ESTABLISHED AN AD VALOREM FEE BASED ON THE VALUE OF IMPORTED MERCHANDISE. RECEIPTS COLLECTED FROM THIS FEE ARE DEPOSITED IN THE "U.S. CUSTOMS USER FEE ACCOUNT" AND ARE TO BE USED TO OFFSET THE COST OF COMMERCIAL ACTIVITIES WITHIN THE CUSTOMS SERVICE. COMMERCIAL OPERATIONS INCLUDE ENTRY, ADMISSIBILITY REQUIREMENTS, APPRAISEMENT AND CLASSIFICATION, REGULATORY AUDIT, TECHNICAL AND LEGAL SERVICES, COMMERCIAL FRAUD, CARGO EXAMINATION, COMMERCIAL DATA SYSTEMS, AND SOME PASSENGER PROCESSING ACTIVITIES AS THEY RELATE TO DUTY COLLECTION. DUE TO A RECENT RULING AGAINST THE AD VALOREM IMPORT FEE BY A PANEL OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT), THE ADMINISTRATION INTENDS TO SUBMIT LEGISLATION THAT WILL MAKE APPROPRIATE CHANGES IN THIS FEE. THE FEE, AS CURRENTLY IN EFFECT, IS NOT CONSISTENT WITH OUR OBLIGATIONS UNDER GATT RULES AND THUS SUBJECTS THE UNITED STATES TO THE POSSIBILITY OF RETALIATION AND SANCTIONS BY OUR TRADING PARTNERS. THE CORRECTING LEGISLATION WILL CHANGE THE FEE FROM ITS CURRENT AD VALOREM BASIS TO A TRANSACTION-BASED FEE, IN WHICH THE FEE CHARGED FOR A PARTICULAR SERVICE IS DIRECTLY LINKED TO THE COST OF PROVIDING THAT SERVICE.

COMMERCIAL ACTIVITIES INCLUDE THE OVERALL MISSION TO CARRY OUT APPRAISEMENT, CLASSIFICATION AND COLLECTION OF DUTIES ON IMPORTED MERCHANDISE, COLLECTIONS OF STATISTICS ON IMPORTS AND EXPORTS, EFFECTIVE ENFORCEMENT OF CUSTOMS LAWS AND REGULATIONS AND OTHER AGENCY REQUIREMENTS FOR CARRIERS, CARGO, AND PERSONS ENTERING AND DEPARTING THE UNITED STATES INCLUDING DETERMINATION OF QUOTA

ADMISSIBILITY AND COMPLIANCE WITH MARKING, TRADEMARK, COPYRIGHT AND LICENSING AGREEMENTS; AND INSURING THAT IMPORTATIONS MEET ALL NECESSARY REQUIREMENTS FOR ENTRY INTO THE UNITED STATES.

IN THE LAST FEW YEARS, CUSTOMS DEDICATED ADDITIONAL RESOURCES TO COMMERCIAL OPERATIONS IN ORDER TO PROVIDE MORE EXPEDITIOUS SERVICE TO THE IMPORTING COMMUNITY AND TO IMPROVE DETECTION OF COMMERCIAL FRAUD. AMONG THE MAJOR INCREASES HAVE BEEN: ADDITIONAL INSPECTOR POSITIONS FOR THE WEST COAST AND SOUTHWEST BORDER; ADDITIONAL IMPORT SPECIALIST POSITIONS FOR IMPROVED SERVICE TO THE IMPORTING PUBLIC; AND ADDITIONAL SPECIAL AGENT AND AUDITOR POSITIONS FOR USE IN COMMERCIAL FRAUD. HOWEVER, NOTWITHSTANDING THE RESOURCE INCREASES, CUSTOMS MUST STILL IDENTIFY WAYS TO FACILITATE PASSENGER, CARGO, AND ENTRY PROCESSING AND STILL MAINTAIN HIGH COMPLIANCE LEVELS WHILE DEALING WITH AN INCREASINGLY COMPLEX WORKLOAD AND ESCALATING COSTS. CURRENTLY, CUSTOMS IS COPING WITH INCREASED ENTRY WORKLOADS THROUGH THE USE OF INCREASED SELECTIVITY SUPPORTED BY AUTOMATED PROCESSING, AS WELL AS THROUGH STAFFING INCREASES.

COMMERCIAL FRAUD

CUSTOMS WILL CONTINUE TO GIVE COMMERCIAL FRAUD ACTIVITIES A HIGH PRIORITY. THE SHIFT IN RECENT YEARS OF RESOURCES TO SIGNIFICANT FRAUD INVESTIGATIONS HAS PRODUCED EXCELLENT RESULTS IN TERMS OF FINANCIAL GAINS TO THE GOVERNMENT AS WELL AS PROSECUTION OF SIGNIFICANT CRIMINAL CASES. DOMESTIC INDUSTRIES HAVE BEEN PROTECTED FROM UNFAIR AND ILLEGAL INTERNATIONAL TRADE PRACTICES AND THE GOVERNMENT HAS RECEIVED SUBSTANTIAL MONETARY RETURNS FROM CRIMINAL FINES AND CIVIL PENALTIES.

WE WILL CONTINUE OUR MULTI-DISCIPLINED FRAUD TEAMS, USING THE EXPERTISE OF SPECIAL AGENTS, IMPORT SPECIALISTS, INSPECTORS, REGULATORY AUDITORS, AND TECHNICAL STAFF. HIGH-RISK COMMODITIES SUCH AS TEXTILES, WEARING APPAREL, STEEL, COFFEE, SUGAR AND ELECTRONICS WILL CONTINUE TO BE TARGETED, AS WILL THE DETECTION OF COPYRIGHT AND TRADEMARK VIOLATIONS. INCREASED PROSECUTION AND PENALTIES RESULTING FROM THESE INVESTIGATIVE AREAS WILL PLAY A MAJOR ROLE IN INSURING THAT LAWFUL REVENUES ARE COLLECTED AND THAT THE INTEGRITY OF TRADE AGREEMENTS ARE MAINTAINED.

THE BUSINESS CLIMATE IS CONTINUING TO PRESENT CUSTOMS WITH AN INCREASED COMMERCIAL FRAUD THREAT. PROHIBITED MERCHANDISE CONTINUES TO ENTER U.S. COMMERCE THROUGH THE PRESENTATION OF FALSE DOCUMENTATION UPON ENTRY, USE OF COUNTERFEIT VISAS AND EXPORT LICENSES, THIRD COUNTRIES AS TRANSSHIPMENT POINTS, MISDESCRIPTION, AND MISCLASSIFICATION. IN ADDITION, REVENUE LOSSES ARE SUSTAINED DUE TO UNDERVALUATION AND THE SHIPMENT OF EXCESS MERCHANDISE NOT DECLARED UPON ENTRY. CUSTOMS WILL CONCENTRATE RESOURCES ON CASES WITH HIGH EXPECTATION OF MAJOR REVENUE RECOVERIES AND ENFORCEMENT OF TRADE PROTECTION LAWS.

THE NATIONAL FRAUD INVESTIGATIONS HOTLINE, (1-800-542-USCS) HAS BEEN OPERATIONAL FOR APPROXIMATELY ONE YEAR, AND SEVERAL SIGNIFICANT FRAUD INVESTIGATIVE LEADS HAVE BEEN OBTAINED.

WHILE THERE HAS BEEN A CONTINUING FOCUS ON OTHER FRAUD INITIATIVES, RECENT CONCERNS EXPRESSED BY CONGRESS AND DOMESTIC INDUSTRIES, AS WELL AS THE ADMINISTRATION'S POLICY ON FREE AND FAIR TRADE, REQUIRE THAT WE PLACE A HIGH PRIORITY ON THE ENFORCEMENT OF COUNTRY-OF-ORIGIN MARKING REQUIREMENTS. CUSTOMS HAS INCREASED ITS EFFORT TO STOP FRAUDULENT MARKING PRACTICES AND IS CONDUCTING A MAJOR MARKING INITIATIVE WHICH IS DESIGNED TO TARGET A WIDE RANGE OF COMMODITIES PARTICULARLY SUSCEPTIBLE TO VIOLATION. TO DATE, THE

RESULTS OF THE MARKING ENFORCEMENT PROGRAM HAVE CONFIRMED OUR SUSPICIONS OF SIGNIFICANT VIOLATIONS.

FINES, PENALTIES & FORFEITURES

THE OFFICE OF FINES PENALTIES AND FORFEITURE, OR (FP&F) AT HEADQUARTERS AND IN THE FIELD, IS TASKED WITH THE EFFICIENT AND ACCURATE PROCESSING OF ALL CIVIL VIOLATIONS OF CUSTOMS LAWS ULTIMATELY CALLING FOR IMPOSITION OF A FINE, COLLECTION OF LIQUIDATED DAMAGES, OR FORFEITURE OF MERCHANDISE.

THE MAJOR OBJECTIVES OF THE FINES, PENALTIES AND FORFEITURES (FP&F) PROGRAM THIS YEAR WILL BE: NATIONAL IMPLEMENTATION OF AN FP&F AUTOMATED SYSTEM AND; STANDARDIZATION OF FP&F FIELD PRACTICES AND PROCEDURES. AUTOMATION OF THE FP&F FILES HAS PROVIDED CONSISTENT, LEGALLY SUFFICIENT NOTICES TO VIOLATORS AND HELPED ENSURE PROMPT ACTION ON CASES BY FACILITATING INQUIRIES ON CASE STATUS. THE FP&F MODULE PUT ON-LINE NEEDED INFORMATION ABOUT BROKERS, IMPORTERS, AND SURETY PERFORMANCE AND HELPS ENSURE THE UNIFORMITY OF VIOLATION PROCESSING.

REVISED PROCEDURES AND AUTOMATED ASSISTS FOR PROCESSING NO FILE/ LATE FILE CASES WILL BE IMPLEMENTED. ONE SPECIAL EFFORT, PROJECT 6000, IS REDUCING THE CASE BACKLOGS WHILE AUTOMATION IS PROVIDING CUSTOMS WITH THE ABILITY TO PROCESS CASES IN A TIMELY MANNER.

SEIZURE PROGRAM - CONTRACTING OUT

IN FY 1985 CUSTOMS INITIATED A CONTRACT WITH NORTHROP WORLDWIDE AIRCRAFT SERVICES, INC., TO STORE, MAINTAIN, AND DISPOSE OF SEIZURES (OTHER THAN DRUGS, PROHIBITED MERCHANDISE, AND OTHER SENSITIVE ITEMS) MADE BY CUSTOMS. TO DATE, THEY HAVE PROCESSED MORE THAN 17,400 SEIZURES VALUED AT OVER $351.7 MILLION. OVER 90 PERCENT OF CONSIGNED

PROPERTY IS STORED WITH SUBCONTRACTORS UNDER LONG-TERM CONTRACT AGREEMENTS. AS OF DECEMBER 24, 1987, THERE WERE 6,902 SEIZURES IN NORTHROP CUSTODY AS FOLLOWS:

AIRCRAFT	136
VESSELS	289
VEHICLES	1,775
OTHER	4,702

NORTHROP HAS RECENTLY BEEN AWARDED THE CONTRACT FOR STORAGE, MAINTENANCE, AND DISPOSITION OF CUSTOMS GENERAL ORDER MERCHANDISE AND THEY ARE CURRENTLY IN A START-UP PERIOD ON THE CONTRACT.

THESE TWO CONTRACTS REPRESENT A MAJOR ACCOMPLISHMENT ON THE PART OF CUSTOMS TO MORE EFFECTIVELY MANAGE GOVERNMENT ASSETS TO MAXIMIZE THEIR VALUE FOR THE AMERICAN TAXPAYER.

AUTOMATED COMMERCIAL SYSTEM: SUMMARY

THE AUTOMATED COMMERCIAL SYSTEM (ACS) IS NOW PROCESSING MERCHANDISE ENTRIES, REVENUE COLLECTIONS, ENTRY LIQUIDATIONS, AND AN INCREASING NUMBER OF BROKER TRANSACTIONS. ACS IS A SINGLE AUTOMATED SYSTEM WHICH ELECTRONICALLY INTEGRATES NEARLY ALL ASPECTS OF CUSTOMS COMMERCIAL CARGO PROCESSING. IT PROVIDES AN ELECTRONIC MEDIUM FOR MERCHANDISE PROCESSING AND RELEASE, CARGO EXAMINATION, ENTRY SELECTIVITY, DUTY COLLECTION, AND LIQUIDATION. IT PROVIDES TO SUBSCRIBERS INFORMATION ON BONDS, QUOTAS, FINES, PENALTIES, AND FORFEITURES. IT CALCULATES INTEREST ON BILLS, AND GENERATES STATISTICAL DATA WHICH CAN BE UTILIZED BY OTHER AGENCIES, SUCH AS CENSUS. AUTOMATED BROKER INTERFACE (OR ABI) IS A SUBSYSTEM OF ACS WHICH PERMITS CUSTOMHOUSE BROKERS AND IMPORTERS TO INTERFACE DIRECTLY WITH THE CUSTOMS COMPUTER IN ORDER TO TRANSMIT ENTRY DATA ON IMPORTED MERCHANDISE. THE SELECTIVE ENTRY PROCESSING MODULE IS DESIGNED TO

HELP CUSTOMS OFFICERS IDENTIFY HIGH/LOW-RISK ENTRIES FOR QUICK PROCESSING. ACS/CARGO SELECTIVITY IS CURRENTLY OPERATING IN 97 PORTS OF ENTRY THROUGHOUT THE U.S.

CARGO SELECTIVITY HAS BEEN ENHANCED TO INCORPORATE MORE DATA ELEMENTS AND A HISTORY FILE WHICH WILL BE EXPANDED TO PROVIDE A COMPREHENSIVE TRACK RECORD OF IMPORTERS AND COMMODITIES. ULTIMATELY, THE SYSTEM WILL PERMIT CUSTOMS, THROUGH THE USE OF PRE-PROGRAMMED CRITERIA, TO PROCESS AND LIQUIDATE SELECTED ENTRIES WITH ABSOLUTELY NO HARD COPY DOCUMENTATION.

AUTOMATED BROKER INTERFACE

THE USE OF AUTOMATED BROKER INTERFACE (ABI), COUPLED WITH AN INTEGRATED DATA BASE, WILL ELIMINATE THE NEED FOR KEYING OF REDUNDANT DATA, WHICH IS A MAJOR PART OF MANUAL PREPARATION OF IMPORT DOCUMENTATION. ABI IS OPERATIONAL WITH 324 CLIENTS, BROKERS AND IMPORTERS, WHO HAVE ACCESS TO THE COMPUTER SYSTEMS FOR HANDLING CUSTOMS ENTRY DATA ACCORDING TO ABI REQUIREMENTS. AT THIS TIME, OVER 42 PERCENT OF TOTAL ENTRY SUMMARIES ARE PROCESSED THROUGH COMPUTERS. BASED ON EXTENSIVE BROKER SURVEYS, THE POTENTIAL ENTRY VOLUME FOR ABI IS ABOUT 75-85 PERCENT OF ALL ENTRIES. UNDER THESE CIRCUMSTANCES, ABI PROVIDES A UNIQUE OPPORTUNITY FOR BOTH THE TRADE COMMUNITY AND CUSTOMS TO IMPROVE THEIR RESPECTIVE PROCESSING BY THE ELECTRONIC INTERCHANGE OF DATA. ULTIMATELY, ACS/ABI WILL ELIMINATE THE NEED FOR MANUAL FILING OF MILLIONS OF DOCUMENTS, WHILE ASSISTING IN ERROR CORRECTION PRIOR TO CUSTOMS PROCESSING AND REDUCING COSTLY REHANDLING OF TRANSACTIONS.

AUTOMATED MANIFEST SYSTEM

THE CUSTOMS AUTOMATED MANIFEST SYSTEM (AMS) IS BOTH AN IMPORTED MERCHANDISE INVENTORY AND A CARGO RELEASE NOTIFICATION SYSTEM. THE MANIFEST MODULE IS INTERACTIVE WITH OTHER ACS MODULES.

AMS IS A MEANS OF SPEEDING THE FLOW OF CARGO THROUGH USE OF AN ELECTRONIC RELEASE NOTIFICATION, WHICH IN THE CASE OF SEA CARGO, IS DESIGNED TO TRANSMIT RELEASE NOTIFICATION PRIOR TO ARRIVAL OF THE MERCHANDISE IN THE U.S. THE INVENTORY FILES FOR AMS ARE CREATED IN THE CUSTOMS COMPUTER FROM DATA TRANSMITTED TO THE CUSTOMS DATA CENTER BY CARRIER, PORT AUTHORITY, OR SERVICE CENTER COMPUTER. THIRTEEN CARRIERS, THREE PORT AUTHORITIES, AND TWO SERVICE CENTERS ARE NOW FULLY OPERATIONAL AS AMS PARTICIPANTS. AMS IS BEING USED CURRENTLY TO PROCESS 35 PERCENT OF THE TOTAL SEA BILLS OF LADING HANDLED BY CUSTOMS. CUSTOMS IS CURRENTLY PURSUING AMS IN THE INTERNATIONAL AIR CARGO INDUSTRY.

HARMONIZED SYSTEM

PENDING CONGRESSIONAL ACTION, IT IS EXPECTED THAT THE U.S. WILL REPLACE THE CURRENT TARIFF SYSTEM WITH THE NEW INTERNATIONAL HARMONIZED SYSTEM. ALTHOUGH IT WILL NOT AFFECT U.S. DUTY RATES OR COLLECTIONS, THE SYSTEM, DEVELOPED OVER 12 YEARS OF CONSULTATIONS, IS INTENDED TO PROVIDE THE U.S. AND OTHER TRADING NATIONS WITH A COMMON BASIS FOR DESCRIBING AND CODING BOTH IMPORTED AND EXPORTED MERCHANDISE. THIS WILL IN TURN PERMIT US TO SIMPLIFY AND HARMONIZE BOTH CUSTOMS AND COMMERCIAL DOCUMENTATION AND PROCEDURES, SO THAT MERCHANDISE ENTERING THE U.S., AND U.S. MERCHANDISE SHIPPED TO OTHER COUNTRIES, CAN BE PROCESSED MORE QUICKLY AND IN A MORE UNIFORM AND PREDICTABLE MANNER.

DAY ONE

"DAY ONE" IS A VISION OF THE CUSTOMS SERVICE OF THE NEXT CENTURY. IF WE HAD TO DEVELOP A SYSTEM FOR ENTERING AND PROCESSING MERCHANDISE ACROSS OUR BORDERS IN TODAY'S HIGHLY AUTOMATED ENVIRONMENT, THE SYSTEM THAT WOULD EVOLVE WOULD BE SOMETHING TOTALLY UNRECOGNIZABLE FROM THE SYSTEM WE ARE COMFORTABLE WITH TODAY. "DAY ONE" IS A BROAD, FAR-THINKING EFFORT TO MEET THE CHALLENGES OF TOMORROW.

"DAY ONE", WHICH BEGAN EARLY IN FISCAL YEAR 1987, INTEGRATES MANY OF THE MOST RECENT ADVANCES IN CUSTOMS COMMERCIAL AND INSPECTIONAL OPERATIONS AS WELL AS EXTENDING THESE SYSTEMS TO COPE WITH THE PROCESSING PROBLEMS FORSEEN FOR THE FUTURE. "DAY ONE" WILL EXPLORE THE POSSIBILITIES OF USING NEW TECHNOLOGIES TO SPEED CARGO, REDUCE PAPERWORK EVEN FURTHER, AND ESTABLISH A FULLY AUTOMATED PROCESSING SYSTEM. TO MEET THE REQUIREMENT OF MORE RAPID MOVEMENT OF MERCHANDISE, ELECTRONIC TRANSFER OF INFORMATION BETWEEN THE IMPORTER/ BROKER AND CUSTOMS WILL BECOME THE STANDARD PROCESSING APPROACH. AN IMPORTANT SERVICE CUSTOMS WILL OFFER IS RAPID AND PREDICTABLE RELEASE TIMES FOR CARGO PROCESSING. ABI USERS WILL BE OFFERED STATEMENT PROCESSING AND PAYMENT THROUGH AN AUTOMATED CLEARINGHOUSE. A NEW POSITION OF "TRADE INSPECTOR", THOROUGHLY TRAINED IN CLASSIFICATION AND VALUE AS WELL AS INSPECTIONAL DUTIES, WILL BE CREATED.

MC KINSEY STUDY

THE MC KINSEY STUDY WAS CONDUCTED BY MC KINSEY AND COMPANY OF NEW YORK WITH ASSISTANCE FROM CUSTOMS PERSONNEL. IT PROVIDES CUSTOMS WITH A STRATEGIC VISION TO FACILITATE THE PLANNING AND IMPLEMENTATION OF PROCEDURES AND SYSTEMS REQUIRED TO IMPROVE ENFORCEMENT OF TRADE LAWS AND OPERATING EFFICIENCY. THE STUDY IS BASED ON INFORMATION AND

DATA ASSEMBLED DURING INTERVIEWS WITH REPRESENTATIVES FROM A BROAD SPECTRUM OF U.S. AND EUROPEAN MANUFACTURERS, INTERMEDIARIES, AND AGENCIES INVOLVED IN INTERNATIONAL TRADE. SEVERAL OF THE MC KINSEY RECOMMENDATIONS ARE ALREADY BEING IMPLEMENTED BY CUSTOMS SUCH AS CONTINUED VIGOROUS MARKETING OF ABI TO CUSTOMS BROKERS AND IMPORTERS AS WELL AS EXPANSION OF TOTALLY PAPERLESS ENTRY AND RELEASE PROCESSING. OTHER OPPORTUNITIES COULD: 1) INCREASE IMPORT SPECIALIST TIME DEVOTED TO PRE-CLASSIFICATION; 2) EXPAND AUTOMATED MANIFEST SYSTEMS TO OVERSIGHT OF COURIERS AND RAILROADS; 3) INCREASE THE USE OF AUDITS FOR ENFORCEMENT PURPOSES; 4) DEVELOP ELECTRONIC MESSAGES FOR COMMUNICATING ENTRY AND INVOICE SUMMARY DATA; 5) DEVELOP ELECTRONIC INTERFACES WITH OTHER FEDERAL AGENCIES; AND 6) DEVELOP A PLAN TO CREATE INTERFACE WITH CUSTOMS AGENCIES AND CORPORATIONS WORLDWIDE.

CUSTOMS FIELD LABORATORIES

CUSTOMS FIELD LABORATORIES HAVE SIGNIFICANTLY EXPANDED THEIR ROLES IN SUPPORTING INVESTIGATIONS OF COMMERCIAL FRAUD THROUGH ENHANCED DOCKSIDE EXAMINATIONS AND IMPROVED TECHNOLOGY WITHIN THE LABORATORY. ENHANCEMENTS IN ANALYTICAL INSTRUMENTATION WILL PROVIDE THE LABORATORIES WITH THE CAPABILITIES TO SUPPLY SOPHISTICATED TECHNICAL INFORMATION IN SUPPORT OF COMMERCIAL FRAUD. THE LABORATORIES WILL BE OPERATING AN "18-WHEELER" MOBILE LABORATORY ALONG THE SOUTHWEST BORDER ALONG WITH THREE ADDITIONAL MOBILE VANS USED TO SUPPORT CUSTOMS ENFORCEMENT EFFORTS. THEY WILL PARTICIPATE IN MULTI-DISCIPLINE FRAUD TEAMS, PROVIDING TECHNICAL INFORMATION ON HIGH-RISK COMMODITIES SUCH AS TEXTILES, STEEL AND STEEL PRODUCTS, SUSPECTED COUNTERFEIT GOODS, AND PRODUCTS SUSPECTED OF INFRINGING PATENTS OR COPYRIGHTS.

CENTRALIZED CARGO PROCESSING

CUSTOMS AS A RESULT OF LEGISLATIVE ACTION HAS POSTPONED IMPLEMENTATION OF THE CENTRALIZED EXAMINATION STATION CONCEPT. THE GENERAL ACCOUNTING OFFICE IS CURRENTLY CONDUCTING AN AUDIT OF THIS PROGRAM AND WILL ISSUE ITS REPORT LATER THIS YEAR. WE ARE HOPEFUL THAT THE REPORT WILL CONFIRM THE BENEFITS OF THE CES CONCEPT, AND THAT WE WILL AGAIN BE ABLE TO MOVE AHEAD WITH THE PROGRAM. WE BELIEVE THAT THIS PROGRAM CAN OFFER BENEFITS TO BOTH CUSTOMS AND THE TRADE COMMUNITY.

NORTHERN BORDER INITIATIVE

THE ESTABLISHMENT OF COMMERCIAL CENTERS AND PERMIT PORTS WILL GIVE CUSTOMS THE OPPORTUNITY TO MORE EFFICIENTLY UTILIZE OUR MANPOWER AND ENABLE US TO CONCENTRATE OUR AUTOMATED SYSTEMS CARGO EXAMINATION EQUIPMENT AND FACILITIES AT SPECIFIC LOCATIONS RATHER THAN AT ALL OF THE CROSSINGS ALONG THE NORTHERN BORDER. THIS CONCEPT IS CONSISTENT WITH OUR FACILITATION EFFORTS WHILE GIVING US ENFORCEMENT CAPABILITIES THAT DO NOT EXIST AT OUR SMALL PORTS OF ENTRY.

CUSTOMS HAS TESTED A COMMERCIAL CENTER/PERMIT PORT SYSTEM IN THE STATE OF MAINE FOR THE PAST SIX MONTHS AND HAS FOUND IT TO BE WORKING SUCCESSFULLY. WITH THE APPROVAL FROM THE CONGRESSIONAL DELEGATIONS IN THE AFFECTED STATES, THE SYSTEM WILL BE EXPANDED TO ESTABLISH APPROXIMATELY 26 NORTHERN BORDER PORTS OF ENTRY AS COMMERCIAL CENTERS. THE REMAINING PORTS WILL BE PERMIT PORTS. THE BASIC PREMISES ARE: (1) AS MUCH CARGO WILL BE FUNNELED TO THE COMMERCIAL CENTERS AS POSSIBLE; (2) PERMITS TO ENTER LOW-RISK CARGO AT OTHER THAN COMMERCIAL CENTERS WILL BE ISSUED IF IT WOULD CAUSE A HARDSHIP TO ENTER THE MERCHANDISE

ELSEWHERE; AND (3) CURRENT STAFFING LEVELS, HOURS OF SERVICE, PASSENGER PROCESSING, INFORMAL ENTRIES AND NON-COMMERCIAL SHIPMENTS WILL NOT BE AFFECTED.

COOPERATIVE EFFORTS WITH BORDER TRADE ALLIANCE

MEETINGS WITH THE BORDER TRADE ALLIANCE WHICH REPRESENTS SOUTHWEST BORDER COMMERCIAL INTERESTS FROM BROWNSVILLE, TEXAS TO SAN YSIDRO, CALIFORNIA HAVE LED TO THE DEVELOPMENT OF SEVERAL ACTION ITEMS AIMED AT IMPROVING THE FLOW OF CARGO TRAFFIC ALONG THE SOUTHERN BORDER AND INTO U.S. CUSTOMS IMPORT LOTS. BORDER TRADE ALLIANCE DISCUSSIONS HAVE INVOLVED MEXICAN CUSTOMS REPRESENTATIVES WHO HAVE AGREED TO ASSIST IN ENSURING AN EVEN FLOW OF TRUCK RELEASES FROM MEXICO. MEXICAN CUSTOMS IS LOOKING AT THE DEVELOPMENT OF STAGING AREAS SOUTH OF THE BORDER FOR TRUCKS AWAITING THEIR U.S. ENTRY DOCUMENTS, OR TO QUEUE UP FOR ENTRANCE TO THE BUSY BRIDGES.

BILATERAL AGREEMENTS

CUSTOMS IS MAKING STEADY PROGRESS IN OBTAINING BILATERAL AGREEMENTS. CURRENTLY, THERE ARE FORMALLY SIGNED AGREEMENTS WITH: FRANCE, AUSTRIA, GERMANY, MEXICO, CANADA, ITALY, KOREA, CYPRUS, SWEDEN, AND FINLAND; NEGOTIATIONS ARE ONGOING WITH SPAIN AND BELGIUM WITH RENEGOTIATION OF THE 1936 FRENCH AGREEMENT ALSO IN PROGRESS. WE HAVE RECEIVED NEGOTIATION AUTHORITY FROM THE STATE DEPARTMENT FOR ISRAEL, UNITED KINGDOM, PANAMA, GREECE, BRAZIL, AND ARGENTINA; AND WE HAVE REQUESTED NEGOTIATION AUTHORITY FOR NORWAY AND DENMARK.

ADVISORY COMMITTEE ON CUSTOMS COMMERCIAL OPERATIONS

MR. KEATING MENTIONED THE ESTABLISHMENT OF THE NEW TREASURY ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF THE CUSTOMS SERVICE. I WOULD LIKE ONLY TO ADD THAT I AM LOOKING FORWARD TO HEARING THE

VIEWS AND RECOMMENDATIONS OF THE ADVISORY COMMITTEE AND WORKING WITH TREASURY TO IMPLEMENT THOSE AS APPROPRIATE.

CONCLUSION

CUSTOMS IS A MULTI-MISSION AGENCY. IT BEARS THE TREMENDOUS RESPONSIBILITY OF THWARTING TRADE IN ILLICIT NARCOTICS WHILE AT THE SAME TIME FACILITATING LEGITIMATE INTERNATIONAL TRADE IN MERCHANDISE. CUSTOMS PLANS TO USE THE RESOURCES AT ITS DISPOSAL AND THE MANAGEMENT INNOVATIONS DISCUSSED TODAY TO RECONCILE THESE TWO SOMETIMES CONFLICTING GOALS.

THIS CONCLUDES MY INTRODUCTORY STATEMENT.

I AM READY TO DISCUSS THE DETAILS OF THE REQUEST AND ANSWER YOUR QUESTIONS AND THOSE OF THE SUBCOMMITTEE MEMBERS.

INTRODUCTION OF ASSOCIATES

Commissioner VON RAAB. Allow me to introduce the Customs' officials who are appearing with me. To my far left is Eugene Mach, who is our Assistant Commissioner for Commercial Operations.

At his right is Al Martin from our Chief Counsel's Office. Next is Bill Riley, our Comptroller. On my immediate left is Sam Banks, who is our Assistant Commissioner for Inspection and Control.

On my right is Bill Rosenblatt, who is our Assistant Commissioner for Enforcement.

As you indicated in your opening statement, the Customs Service is submitting the largest budget for the Service ever proposed by the administration, a budget which we believe will serve this country well and will meet the needs of the Customs Service in both its commercial and enforcement responsibilities.

Our request is basically for continuing all of our ongoing programs and initiatives at current levels. Our salaries and expenses request is for 16,099 full-time equivalent positions and $966.9 million as compared to the same number of full-time equivalent positions and $966 million in the fiscal year 1988 continuing resolution.

The "Salaries and expenses" account does not have any new initiatives, but includes $34.3 million for mandatory cost increases, and nonrecurring costs and savings of $33.3 million.

We believe we have made great strides in our hiring process, not only in the system itself, but in the actual results. I am pleased to announce that we currently have 16,503 men and women onboard, and that we expect to reach our fiscal year 1988 level of 16,099 for the salaries and expenses appropriation by midsummer.

Our operation and maintenance request, which is also sometimes called the air budget, is for $142.3 million, as compared to $140 million in the fiscal year 1988 continuing resolution.

There are two small initiatives in the O&M budget. They are $2.6 million for a hangar and building in Albuquerque, NM, and $14.8 million for over-the-horizon radar.

We also have requested $10 million for the forfeiture fund, which is the same level as fiscal year 1988. For user fees at small airports we are requesting $1.6 million and 22 full-time equivalent positions as opposed to a smaller amount, $486,000 and 8 full-time equivalent positions in fiscal year 1988. At this level eight additional airports will be staffed.

I would point out to some of the members of the committee who represent border States of our country that since October 1, 1985, Customs has added 1,219 positions to the southwestern border of the United States and 670 to the southeastern gulf. This represents a total increase over the past couple years of 1,889 men and women on our borders. I believe this is a good sign and shows the commitment of this administration and of the Congress in trying to strengthen our defenses against the serious problems that we face.

This concludes my summary and we will now be glad to answer any questions that you may have.

STATE AND LOCAL PARTICIPATION IN OPERATION ALLIANCE

Senator DECONCINI. Commissioner, thank you.

Would any of your other witnesses like to make any opening statements?

Commissioner VON RAAB. No.

Senator DECONCINI. Commissioner, Operation Alliance and more involvement of State and local participation is something of interest to me.

Last year in the Senate report, the committee expressed its concern that State and local law enforcement officials were not being directly involved in Operation Alliance along the Southwest border. This was a common complaint that we heard during hearings in Nogales and Las Cruces.

You had representatives there, and I thank you for that, so they had an opportunity to convey that to you as well as yourself being out there on one occasion.

The report directs the Commissioner of Customs and his regional people to bring State and local Alliance coordinators more deeply into the planning and implementation of the Alliance initiatives.

What specific progress can you point to in this regard, and can you give us any examples?

Commissioner VON RAAB. Mr. Chairman, as you know, one of my highest priorities is the development of a long-lasting and effective working relationship between the Customs Service and all the State and local agencies across the entire southern border.

We are doing that in the Southwest under the umbrella of Operation Alliance, and I would ask Mr. Rosenblatt to give you a few of the details of our efforts in this respect.

Mr. ROSENBLATT. Specifically, Mr. Chairman, in the very recent past and since we have had our last hearing on this particular subject, the new joint commander in El Paso, Jerry Padalino, has made a personal effort on behalf of the joint group to get together with Arizona State and local officials.

There have been three meetings. Just last week there was a meeting in which State officials representing the sheriffs and the local police are planning what we call quarter or border operations.

Sheriff Dupnik is deeply involved in it. I talked to Mr. Padalino, and he assures me, as do the answers to some inquiries I have made myself, that the situation is much better than when we had our last hearing.

Neil Currin from the State of New Mexico is deeply involved, not only in the operation, but as I understand it now, Mr. Chairman, in the actual planning of these operations.

RESOURCE SHARING WITH STATE AND LOCALS

Senator DECONCINI. Mr. Rosenblatt, thank you.

I have talked to Sheriff Dupnik and some of the other sheriffs there, and they have fewer complaints about Customs than about any of the agencies. Part of their complaints is lack of resources.

What resources, if any, do you have that you can share or that you do share with local law enforcement?

Commissioner VON RAAB. We have our own personal efforts and those of our agents which have been considerable.

In addition to that, over the past year, we have distributed across the entire southern border over 800 radios to local police departments.

Senator DECONCINI. Those have actually been handed over to them?

Commissioner VON RAAB. Yes.

Senator DECONCINI. Is that on a lease basis or a long-term loan?

Commissioner VON RAAB. It is on a sort of long-term, penny-a-year program.

Senator DECONCINI. Until you get them back.

Commissioner VON RAAB. Correct.

They are extremely useful because we now have the entire southern border on the same radio network.

Senator DECONCINI. Has that occurred in Arizona, do you know?

Commissioner VON RAAB. We have handed out over $600,000 of equipment on the Southwest border, which includes Arizona, Texas, and New Mexico.

In addition to that, we have authorization under the continuing resolution to provide up to $750,000 to the State and local officials in assistance in joint operations with the Customs Service and in Operation Alliance. Our special agents in charge have been spending a lot of time with the local sheriff departments and police departments to see how best to use this $750,000. I would expect over the next few months you will see this money being distributed to those departments.

Mr. ROSENBLATT. I might add, Mr. Chairman, we have shared over $3 million in seized assets with State and local agencies on the border.

We also have spent about $600,000 in equipment to assist these operations. We have transferred or upgraded vessels and we take pride in the fact that we have 370 State and local officers that have been cross-designated to act when we do not have personnel on site.

Senator DECONCINI. Thank you. I just want to encourage that continued effort.

I know you are swamped with your own responsibilities and cases and what-have-you, but it makes a world of difference and it, quite frankly, makes life a little easier for us when they feel a part of this operation. I hope it also enhances it.

I yield to the Senator from New Mexico for any opening statement he may have.

Senator DOMENICI. First, Mr. Chairman, let me apologize for being late. I was out having some dental work done, and I got caught in a traffic jam.

Senator DECONCINI. Your loyal, devoted staff gave me permission to proceed without you. [Laughter.]

SENATORS OPENING REMARKS

Senator DOMENICI. I would ask to have my opening remarks put into the record.

I would just indicate that I think, looking at the President's budget, you have won the budget war this year. We are going to stay on a pretty dramatic path of enhanced activities, and I compliment you for that.

I hope the manner in which the Appropriations Committee handles this keeps enough money in this subcommittee so that we can give you the level of funding that you have asked for.

Clearly, this will be our last opportunity to talk with you in this manner on a budget, and I just want to tell you that I think you have done a wonderful job.

Senator DECONCINI. I concur completely.

I yield to the Senator from Maryland for any opening statement she may have.

Senator MIKULSKI. I just want to welcome the Commissioner. I know that this is strictly a barebones bottom-line budget and, again, I am going to say we could work with you, our focus and interest will be the continued fight against illegal drugs and some of the things related to the commercial aspects.

PREPARED STATEMENTS

Senator DECONCINI. Without objection, the statement of the Senator from New Mexico will be in the record along with a statement submitted by Senator D'Amato.

[The statements follow:]

STATEMENT OF SENATOR PETE V. DOMENICI

Thank you, Mr. Chairman. I welcome you here today Commissioner von Raab to present to us the fiscal year 1989 budget request for the U.S. Customs Service.

I think you will recall that last year, the budget request you presented to us not only proposed program reductions for fiscal year 1988, but a fiscal year 1987 funding rescission as well as a delay in the obligation of your air program funds. I expect you will have an easier time here this morning.

I am pleased to see that the fiscal year 1989 budget request for the Customs Service sustains the enhanced levels for Customs commercial processing operations funded for fiscal year 1988. It also enables the Customs Service to maintain its strong enforcement capabilities, particularly against illegal drugs, and continues to build our arsenal of air interdiction assets.

I would say that given this request Commissioner, you have won the budget war this year. I only hope this bodes well for our winning the war against illegal-narcotics as well.

I am obviously pleased that the second Southwest border aerostat to become operational will be near Deming, NM. I also see that your fiscal year 1989 request includes an additional $2.58 million for the hangar facility for the customs air branch in Albuquerque. I thank you for that. As you know, this is a needed facility.

We are pleased with the many initiatives the Customs Service has undertaken to strengthen its enforcement efforts and to facilitate the flow of passengers and cargo. The Customs Service, under your direction Commissioner, has introduced major innovations in these areas. We will be interested in hearing about those here today.

We also hope that the Southwest border facility improvements which the chairman and I initiated last year will ultimately improve the working conditions for your personnel as well as provide the proper infrastructure for you to adequately perform your dual enforcement and processing facilitation roles.

Since this is the last year of the current administration, I think we all would like to take this opportunity to tell you what a fine job you have done Commissioner.

I look forward to your testimony today.

Thank you.

STATEMENT OF SENATOR ALFONSE D'AMATO

Thank you, Mr. Chairman, for calling this hearing on the President's proposed budget for the Customs Service. I look forward to hearing from Commissioner von Raab, who has been almost as outspoken as I have in pointing out the deficiencies of our antidrug efforts. Somehow, he survives. Somebody up there must like him. This year, OMB hasn't even tried to cut his budget.

This year's budget essentially continues last year's levels. It provides $966,903,000 for salaries and expenses for 16,099 full-time equivalent positions; $142,262,000 for operation and maintenance expenses of the Air Interdiction Program; and $10 million for the forfeiture fund.

Mr. Chairman, it is important that we put this proposal in a much larger context, the increasing threat posed by the international drug cartels. We owe the American people, and the brave men and women of the Customs Service, more than a great array of ships, planes, and equipment. Unless we develop a strategy to defeat the drug cartels, their power will only grow stronger.

We have seen how the Medellin Cartel corrupted General Noriega and his henchmen in Panama. The same thing is happening throughout Latin America.

What is our strategy, Mr. Chairman?

Gen. Paul Gorman, former Commander of Southern Command, has analyzed the situation in Columbia, where the cocaine cartels have their headquarters. Testifying before the Senate Foreign Relations Committee on February 8, General Gorman said the following:

"We have been promising the Colombians materiel help since 1983. We have simply not delivered. Whether that help is radars or modern helicopters or actionable intelligence, the rhetoric of the United States has consistently outrun its performance.

"We have not sought to devise with the Colombians a long-term comprehensive strategy for dealing with the narcotraffickers, one which would draw upon all the respective strengths of both countries."

Mr. Chairman, General Gorman is absolutely correct.

In Mexico, we have another sorry spectacle. An attorney representing the alleged murderer of DEA agent Enrique Camarena has just released the identities of three DEA agents and their families. The situation in Mexico gets worse by the day.

The Customs Service informs me that, during the last 2 years, there have been 55 documented cases where aircraft suspected of carrying drugs from Mexico were tracked to the United States. Unfortunately, surveillance of those planes had to be terminated when they fled back to Mexico.

U.S. Customs has proposed a solution for this problem many times. It has asked the Mexican Government to grant overflight authority to enable the Customs Service to track these planes into Mexico. This request has been denied every time, even when joint crewing by Mexican and American personnel was proposed.

We must support the Customs Service in this matter. If the Bahamas permits this so-called hot pursuit authority, why can't Mexico?

I look forward to hearing from today's witnesses, and to working with you and the members of this subcommittee to give the Customs Service the full support it deserves, and to develop the all-out effort that is still so woefully lacking.

MR. HILSHER'S OPENING REMARKS

Senator DECONCINI. Mr. Hilsher, do you want to introduce somebody or do you have a statement?

Mr. HILSHER. Yes, Mr. Chairman; I would like to thank you and the other members of the committee for the opportunity to explain that I am here on behalf of Assistant Secretary for Enforcement, Frank Keating, who has asked me to sit in for him while he is otherwise occupied on the Hill delivering a briefing on the national drug enforcement strategy.

Senator MIKULSKI. Are we leaving von Raab?

Senator DECONCINI. No.

I was asked to let him make a statement, that is all.

Commissioner VON RAAB. I thought I was off the hot seat. [Laughter.]

Senator DECONCINI. Let me assure the Senator from Maryland, Commissioner von Raab has been notified that he may be here for a couple of hours.

Mr. HILSHER. Believe me, Senator Mikulski, it would be my finest wish also to put Mr. von Raab back on the hot seat and take myself off it.

I just did want you to know that Mr. Keating has indicated that at the conclusion of his other business on the Hill that he is going to try to make it here.

PREPARED STATEMENT

I would like to request that his prepared statement be included in the record.

Also with me today from Treasury is Jill Kent, the Acting Assistant Secretary for Management.

I would like to say that we agree with you, Mr. Chairman, that the U.S. Customs Service has made substantial gains under Commissioner von Raab's leadership in fulfilling its law enforcement mission as well as processing the passengers, vehicles, and cargo that enters our country daily.

We would also like to take the opportunity to congratulate you, Mr. Chairman, and the members of this committee and thank you for the support that you and these members have given the Customs Service in pursuing those efforts over the years.

I would like to turn it back to Mr. von Raab.

[The statement follows:]

STATEMENT OF FRANCIS A. KEATING II

I am pleased to appear before you today in support of the appropriation request of the U.S. Customs Service for Fiscal Year 1989. With me today are William von Raab, Commissioner of Customs, key staff members, whom the Commissioner will introduce, and Jill E. Kent, Acting Assistant Secretary (Management).

The Fiscal Year 1989 request for the U.S. Customs Service is $966,903,000 and 16,099 direct average positions for Salaries and Expenses, and $142,262,000 for Operations and Maintenance of the air program. We are also requesting $10,000,000 for the Forfeiture Fund and $1,588,000 and 22 direct average positions for Services at certain small airports.

The United States Customs Service is both a border enforcement agency and a major revenue producer. As a border enforcement agency, Customs has a critical role in enforcing our country's laws involving trade and tariff matters, narcotics trafficking, currency violations, and the illegal exportation of critical technology, to mention a few areas.

As a revenue agency, Customs must apply our nation's complex tariff laws without unduly interrupting the movement of millions of persons and billions of dollars worth of merchandise into the United States. For Fiscal Year 1987, the U.S. Customs Service collected $15.7 billion and plans to collect an estimated $17.8 billion in revenue in Fiscal Year 1989.

As the nation's primary border enforcement agency, Customs plays a vital role in the Administration's effort to stop drug smuggling. Customs continues to develop its balanced approach, including air and marine interdiction programs, which addresses all modes and methods of drug smuggling. In fiscal year 1987, Customs seized nearly 88,000 pounds of cocaine, 1,100 pounds of hashish, 1.7 million pounds of marijuana, and 639 pounds of heroin. To maintain this degree of success, Customs must continuously develop new methods and strategies against drug smuggling.

Customs' interdiction efforts are integrated with other agencies through policies established by the National Drug Policy Board. As you know, the Policy Board is a cabinet-level body established in March of 1987 under the chairmanship of the Attorney General. The Policy Board provides the mechanism for coordinating the Federal government's extensive anti-drug program, including both supply and demand reduction efforts.

The Treasury Department is heavily involved in supply reduction efforts with Operation Alliance and the drug interdiction program of the U.S. Customs Service. Operation Alliance is our effort to attack drug smuggling in the Southwest border region with the combined strength and expertise of Federal, state, and local law enforcement. Alliance is directed by the National Drug Policy Board Southwest Border Committee, which I chair, and provides the leadership for coordinated drug interdiction and investigation. Alliance responds to the drug trafficking threat in this region by concentrating resources, sharing intelligence, and carefully coordinating enforcement operations.

Both the Commissioner of the U.S. Customs Service and I participate in the Policy Board oversight structure. The Commissioner of Customs serves as the chairman of the Interdiction Committee, and I serve as the chairman of the Financial Enforcement Committee and the Southwest Border Committee. I also serve as acting chairman of the National Drug Policy Board Enforcement Coordinating Group, which oversees all Federal drug enforcement efforts.

Mr. Chairman, I would like to take this opportunity to acknowledge the support that you and the members of this committee have demonstrated, over the years, for our drug enforcement programs. We sincerely appreciate this support.

Turning to the commercial operations of the Customs Service, Customs has this year begun to enjoy significant success with some of the new programs that it has been developing to handle the heavy volume of trade entering and exiting the United States.

Efforts to automate commercial activities are continuing. Expanded use of automated systems, selectivity, and innovative techniques have been substituted for traditional labor-intensive processes, with resultant improvements not only in efficiency but in effectiveness as well.

The Automated Commercial System (ACS) is now processing merchandise entries, revenue collections, entry liquidations, and an increasing number of broker transactions. ACS is a single system which will integrate all aspects of Customs commercial cargo processing. It provides the medium for merchandise processing and release, cargo examination, entry selectivity, duty collection and liquidation. It supplies information on bonds, quotas, and fines, penalties, and forfeitures. It can calculate interest on bills and provide statistical data that can be utilized by other agencies, such as Census. The Selective Entry Processing module, which is designed to identify low-risk entries for quick processing, provides substantial savings in time and manpower for both Customs and the importing community. ACS Cargo Selectivity is currently operating in 97 ports of entry throughout the United States.

Automated Broker Interface is a sub-system of ACS that allows customs brokers direct access to the Customs computer for the transmittal of entry data on imported merchandise.

The implementation of the Automated Broker Interface, together with an integrated data base, is eliminating the keying of redundant data. This is a major step in reducing the manual preparation of import documentation and in facilitating the processing of commercial transactions. The traditional method requires Customs to examine extensive back-up documentation before authorizing release of merchandise and determining proper classification. The elimination of this requirement for all entries except those selected for intensive review significantly reduces paperwork, for both Customs and the trade community, and it greatly reduces processing time. Currently, over 42 percent of total entry summaries are processed through automation. The potential is 75 to 85 percent.

Customs has authorized creation of an Advisory Committee to provide guidance to the Treasury Department and Customs on the needs of the various commercial constituencies that Customs serves. We expect within the next few days to publish in the Federal Register a notice inviting applications for positions on the Committee. We shall, of course, keep this Committee informed of our progress on this matter.

The U.S. Customs Service has made substantial gains in fulfilling its law enforcement missions as well as in processing the passengers, vehicles, and cargo that enter the country daily. I commend them for their efforts.

Mr. Chairman, this concludes my opening statement. I will now ask the Commissioner of Customs, Mr. William von Raab, to provide you with his statement, and we will then be pleased to respond to questions you or other members of the Committee may have.

P-3 PROGRAM

Senator DECONCINI. Thank you.

I do want the record to show, too, it is a good working relationship that we have had with the Secretary and other people, that is, his assistants and the enforcement people.

I will ask a couple of questions, and then I will yield to the other members.

Mr. Commissioner, if things go well, one of the really promising programs appearing on the drug interdiction horizon is the Customs P–3 airborne early warning surveillance platform that is being developed by Lockheed today.

I understand that the program is about 6 months ahead of schedule and the first P–3 B/AEW will be flight-tested as early as the end of March, and work on the second P–3 that was approved by the Congress and the President for fiscal year 1988 has begun.

Can you tell us about the P–3 program and what Customs' plans are for the follow-on aircraft, and then tell us about NORAD's interest in the P–3 and what they may be willing to contribute to the program?

Commissioner VON RAAB. I will ask Mr. Rosenblatt to give you some of the details of the technical success that we are having, but the position of the Customs Service is that when the P–3 is proven to work we will then be approaching Congress to move ahead with the other aircraft.

However, we are taking the position that we will not commit additional moneys to the P–3's until they are proven to work. We believe they are going to work and, therefore, I believe we are going to see a number of P–3's in the future. We think it is the best use of the taxpayers' money to ensure that those moneys are spent on a successful and useful P–3.

Bill Rosenblatt, if he would, will discuss the technical progress that we have been seeing and also the discussions with NORAD.

Senator DeConcini. You won't spend that money on something else in the meantime, will you?

Commissioner von Raab. No.

Senator DeConcini. Mr. Rosenblatt.

Mr. Rosenblatt. We are approximately 4 to 5 months ahead of schedule, as you indicated in your remarks, Mr. Chairman. The success was in integrating the radar into the aircraft. This advanced the schedule by approximately 4 months.

We expect to have an opportunity to test that aircraft in the late spring or early summer. If everything works out with those evaluations, we could be flying the aircraft prior to the 17-month agreement that we had with the vendor, Lockheed.

Going to the second part of your question, if I have answered the first part completely enough?

Senator DeConcini. You have.

NORAD CONTRIBUTION

Mr. Rosenblatt. I personally met with the General in NORAD. My staff has been working with his staff. The short response to your question is that NORAD personnel are presently drafting an umbrella agreement for presentation to the U.S. Customs. The agreement will be of a very general nature, but will be a foundation for future growth. In a time of crisis, this aircraft would have a use in the Air Force NORAD plant.

Senator DeConcini. Are you going to have a plan, or do they already have one? Are they developing one?

Mr. Rosenblatt. That is part of the agreement.

Senator DeConcini. That is your agreement, to develop it.

Will the NORAD contribute any funds?

Mr. Rosenblatt. Right now we are informed, because of the shortfall in the DOD budget, they do not have money for the data link. That would be very useful.

Senator DeConcini. What kind of money are we talking about, do you have any idea?

Mr. Rosenblatt. I am not certain, but I could surely obtain it and submit it for the record.

Senator DECONCINI. Thank you.

[The information follows:]

COST OF NORAD DATA LINK

A data link (radar target data transfer) from our P-3 AEW to NORAD would cost approximately $2.87 million. This is an estimate for the integration of LINK 11 or TADIL A. This is for HF only and a UHF system would result in an additional expense. Figures are not available for a receiving terminal at the C^3I centers. The Naval Ocean System Center is presently conducting a detailed system requirement study which is expected to be complete in the near future. This will help Customs put a total dollar figure on the complete package.

AEROSTAT PROCUREMENT

Senator DECONCINI. Mr. Commissioner, let me address another subject matter, and that is the aerostat procurement, the timetable for operation.

Customs is in the middle of a major procurement effort, a procurement that will result in the installation of an aerostat at Deming, NM; Yuma, AZ; Puerto Rico; Turks and Caicos; three additional locations along the Southwest border, I believe in Texas; and the aerostat at Georgetown in the Bahamas is also finally back on track.

For the record, if you could give us the estimated time schedule of these aerostats as they come on, and today could you give us some background on the Georgetown, Bahamas, aerostat problem and where we are?

I have heard some information that it has been so delayed that it is going to be in the flight path of a new airfield that is going there and is going to have to be removed within 1 year. I wonder if you could give us some background and clarification please?

Commissioner VON RAAB. With the committee's permission, we do have a chart that lays out the schedule of the various aerostats. We will submit that.

Senator DECONCINI. Without objection, you may submit that for the record.

[The information follows:]

AEROSTAT PROGRAM AS OF MARCH 25, 1988

Site	Funded	Contract	(Estimated) Site start	(Estimated) Site complete	(Contractual) System delivery plus 45 days	(Estimated) Initial operating capabilities
Fort Huachuca, AZ	USCS	Yes				Pending completion of acceptance testing.
Georgetown, Bahamas	DOD	Yes	May 1, 1988	Oct. 30, 1988	Dec. 1, 1988	January 15, 1989.
Deming, NM	DOD	Yes	May 1, 1988	Aug. 2, 1988	Oct. 1, 1988	December 15, 1988.
Big Bend, TX	DOD	Yes	June 1, 1988	Nov. 30, 1988	Dec. 1, 1988	January 30, 1989.
Eagle Pass, TX	DOD	No			June 1989[1]	July 1989.
Yuma, AZ	DOD	No			Aug. 1989[1]	September 1989
Turks and Caicos	DOD	No			Oct. 1989[1]	November 1989.
Moore Field, TX	USCS	No			Dec. 1989[1]	January 1990.
Puerto Rico	$7.8M	No	([2])	([2])	([2])	

[1] Predicated upon June 1988 contract award.

[2] Memorandum of agreement in development.

GEORGETOWN, BAHAMAS AEROSTAT

Commissioner von Raab. Then I would ask Mr. Rosenblatt to comment on the Georgetown matter.

Mr. Rosenblatt. With respect to the Georgetown aerostat, that is currently under construction. We expect that particular aerostat to be up in October. However, when the airport moves, we will be required to move the site to the current Georgetown Airport. We are being told by the Bahamians that is about 18 months. However, it is my guess that it might be longer than the year or 18 months that we have been led to believe. It might be as long as 2 years.

Senator DeConcini. You can't put it there now?

Mr. Rosenblatt. No; they are still using it, and part of the airport runway would have to be used for the base. But we are going to go forward. It is going to cost approximately $1 million to $1.5 million to move the aerostat and put the other base at the current Georgetown Airport.

We are not going to wait 1 or 1½ years. We are going to work with the Bahamians to do as much site preparation as possible. We estimate that when we make the move, the aerostat will be down for approximately 3 to 4 weeks.

SCHEDULE OF OTHER AEROSTATS

Going on to the Turks and Caicos Island sites, we have not finalized any plans. We are working, through the State Department, with the United Kingdom and officials in the Turks and Caicos Islands. I will say this, even if we are able to reach agreement with the United Kingdom on the Turks and Caicos Islands, we are going to have to work very extensively with the Federal Aviation Administration [FAA] because these sites would be right in the midst of current FAA air paths.

With respect to Fort Huachuca, it has been delivered. It has undergone what we call look see testing. There were some problems with what we call target shaking. We are trying to iron that out. But we are also very concerned, since there is a community close by, and we are looking into a rapid descent component on the balloon to ensure that there is a breakaway that we can control should we have to bring that balloon down.

This is the first time that this has ever been tried, and we are hopeful that we can get this accomplished by the end of March or early April to forestall the concerns of the members of the community near the Fort Huachuca base.

For the Deming, NM, aerostat, we estimate a delivery date of October 1, 1988. At the present time, we do not foresee any problems in implementing that balloon or getting it up.

In the Big Bend area in Texas, we will be looking for private land to rent. We have two plots of land identified that are approximately 14 miles west and 14 miles east of Marfa, TX. We expect to have that up, if everything goes well, by May 1, 1989.

We are still negotiating for the Comstock, TX, Eagle Pass site, and anticipate, having that aerostat up by July 1989.

We are still negotiating for the Yuma, AZ, site. We hope to have that one up in November 1989, along with the Moorefield, TX, aerostat, for which we presently do not have sufficient funding.

Senator DeConcini. And Puerto Rico, you don't have funding?

Mr. Rosenblatt. It is my understanding that there is about $7.8 million for the Puerto Rico aerostat.

Senator DeConcini. It is not enough?

Mr. Rosenblatt. It would not be enough. We estimate the total project costs to be between $12 and $15 million.

Senator DeConcini. In Texas, you have to buy these sites, condemn them or lease them, or something like that?

Mr. Rosenblatt. We try to lease the sites. Some will be on Federal property.

Senator DeConcini. Have you given consideration to those that might be on Federal property to move them along, or to move them faster?

Mr. Rosenblatt. We are trying very hard.

Senator DeConcini. I will ask one more question and then I will yield.

CUSTOMS/COAST GUARD AGREEMENT ON GUN CAY, BAHAMAS

Mr. Commissioner, we missed you on Monday when we had a good exchange with the Bahamians on how well we are doing in moving ahead and ridding the Bahamas of drugs, and making a real impression there. One of the issues that came up was this matter of the Customs presence at Gun Cay near Bimini, and cooperation there with the Coast Guard. I am told by staff that the Coast Guard is making a not-so-secret attempt to get Customs out of the Bahamas, particularly in the marine interdiction area.

What is your side of the story, and what are Coast Guard objections? You guys are so nice and everything, I can't imagine that they wouldn't want you there hand in hand.

Commissioner von Raab. We are very proud of Customs' effort in Gun Cay. As a matter of fact, at least on a temporary basis, it has driven smuggling out of Bimini. I received information some weeks ago that one or two banks were having a terrible time meeting their reserve requirements because there wasn't enough money going through them in Bimini. I don't know what banks are doing on Bimini.

We have had extensive discussions with the Coast Guard over our location in Gun Cay. There are some legal issues with respect to Customs operating on the high seas as a result of the *Sarmiento* decision in the 11th circuit. But I am happy to report that yesterday Coast Guard Commandant Paul Yost and I signed an agreement which will ensure the permanent presence of Customs in the Gun Cay area. It also envisions having Coast Guard warrant officers present on Customs boats whenever they are available to take care of problems arising from the *Sarmiento* decision, which we believe will ultimately be overturned by the Supreme Court.

The situation right now is that there is agreement between the Coast Guard and Customs which will result in a largely Customs operation. However, it will be supported both from a jurisdictional perspective and a personnel perspective by the U.S. Coast Guard.

Senator DECONCINI. Mr. Commissioner, that is very encouraging. I think the effort that Customs has done there at Gun Cay has been terrific, and also Coast Guard. I think they have worked well under some particular budget restraints from the 1988 reconciliation that we went through. The budget that we are going to consider this year in the Appropriations Committee is much better.

I just hope that you and the Admiral can continue the cooperative effort. I know that you have extended yourself, and I continuously have those assurances of Admiral Yost. I compliment you. I know that it isn't easy. I know there are strong feelings of what your jurisdictions are, and what your areas are, but obviously when you two gentlemen, and your subordinates, work together, it works, and it works well. I compliment you and urge you to continue doing that, and I will do the same with Admiral Yost.

I yield to the Senator from New Mexico for his questions.

Senator DOMENICI. Thank you very much, Mr. Chairman.

ALBUQUERQUE, NM, HANGAR FACILITY

Mr. Commissioner, I am pleased to see that in your 1989 request you ask for $2.58 million for a hanger facility in Albuquerque. Could you tell me your current schedule for construction of that facility?

Mr. ROSENBLATT. Senator, we are already breaking ground on the Albuquerque facility. We hope to have that completed by the end of the first quarter of 1989. I am still trying to get an exact date from the contractors on this. If I am incorrect on the date I have just given you, I assure you I will advise you in writing of any change in the schedule, once we have it totally firmed up.

Senator DOMENICI. Is the $2.58 million that you ask for, with the $2 million that was appropriated previously, making $4.58 million, enough to cover the total cost of the project, or are you going to need some additional funding?

Mr. ROSENBLATT. It is my understanding that it will cost approximately $5.2 million.

Senator DOMENICI. So if we really want to finish it, instead of $2.58 million, you need some additional money.

Commissioner VON RAAB. I am not certain, Senator, that we are going to need additional money. As we move through our budget year, there are always changes in various accounts. So we are not asking for additional money.

Senator DOMENICI. Once that hangar is completed, do you intend to move any additional aircraft or personnel to that facility?

Mr. ROSENBLATT. We would not be moving additional aircraft, but we may be upgrading the aircraft that are already there. If we get additional aircraft consistent with our strategy in future years, yes, it is conceivable that we would put additional apprehension aircraft or pursuit aircraft in the modular concept.

Senator DOMENICI. I was going to ask about the timing of the aerostats. I think you have answered the chairman with reference to these various aerostats. Let me move over to an ongoing problem that I have been told you have with reference to the proposed system of aerostats.

BASELINE ARRAY RADIO FREQUENCY

The Director of the National Astronomy Radio Observatory, NARO, has indicated that you are working together to find a solution to the Fort Huachuca aerostat's impact on the Kitt Peak station of the very long baseline array, commonly called the VLBA telescope. I am a staunch supporter of your aerostat program, but I am equally committed to the very long baseline array activities.

I wonder if you could advise us about the continuing efforts that are ongoing to try to accommodate to the radio frequency and operating frequency band problems that might affect the very long baseline array and its two other stations and the very large array [VLA] as they relate to the aerostats?

Mr. ROSENBLATT. My staff have frequent meetings with the staff of those other facilities, and I assure you, Senator, I share your concern about both of them working compatibly and not interfering with one another.

I believe that where there is a will there is a way. If it reaches a point where there is an impass, I assure you we will be talking to you and your staff to try to break the loggerhead between the two. I think that between my staff and the staff at those facilities, we will be able to take care of it. If not, we will advise you.

Senator DOMENICI. So you have been told by the experts that there is a possibility.

Mr. ROSENBLATT. There is a possibility, but we will have to work on it. It is not going to happen immediately.

Senator DOMENICI. It is my understanding that the complaint remains that systemwise, the very long baseline array and the peak observatories may have conflict with reference to the bands of planned aerostats. I just urge that the solution be worked out upfront, and not 4 years from now.

Mr. ROSENBLATT. We have to know within the next couple of months, that is for certain.

Senator DOMENICI. I am going to move to a completely different subject, Mr. Commissioner.

TWO-YEAR APPROPRIATION FOR FISCAL YEAR 1988 AND FISCAL YEAR 1989

If we were to decide to provide a 2-year appropriation for some of the accounts of the Treasury, Postal Service, and General Government appropriations bill this year, would you like Customs to be included with reference to some of its accounts?

If that is the case, could you recommend some logical fiscal year 1990 funding requests, even if they are informal, on short notice so that we might experiment this year with some 2-year appropriations?

Commissioner VON RAAB. Obviously, it is desirable for any manager to have as much advance notice of the resources that he or she is going to be able to spend. The Customs Service would like to have as much 2-year money as possible. I would certainly support that.

As far as the other aspects of that are concerned, maybe Bill Riley, our Comptroller, can comment on that.

Senator DOMENICI. Mr. Riley, what I am wondering, if we were to decide to do some of that, how long would it take you to get us some information regarding some 2-year accounts?

Mr. RILEY. It wouldn't take us very long, but we would have to clear it through the Department and the Office of Management and Budget. We are not prepared at this point to give you such information.

Senator DOMENICI. I understand that you wouldn't be now, but if it was cleared and we asked, it wouldn't take you more than a couple of weeks, would it?

Mr. RILEY. No, sir.

Senator DOMENICI. The chairman has asked about the Bahamas. I had some specific questions regarding the allocation of resources in this budget of yours with respect to the Bahamas. I am going to submit those and ask you to answer them in writing, if you would, please.

EXPEDITED CLEARANCE FOR EXPRESS CONSIGNMENT OPERATORS

The Customs Service has proposed a rule to allow expedited clearance procedures of cargo that is carried by express consignment operators, where the consignments are time sensitive. What is the present status of the express consignment industry, and what are some of the problems that are associated with that kind of operation?

Are there reasons for the proposed rules on establishment of clearance for this kind of activity? Is that something that is difficult? Are we getting it done? When do you think you might issue the final regulations on this?

Commissioner VON RAAB. Generally speaking, the Customs Service is making all efforts possible to conform its practices and rules to modern transportation usage. Obviously, one of the fast growing types of transportation is the so-called courier service, and we have responded to some of the developments in that industry. I would ask Mr. Banks to answer your question in more detail.

Mr. BANKS. We currently have a proposed rulemaking out for comment, Senator. I believe the closing date is March 1.

Senator DOMENICI. Have you received comments from people like UPS and others indicating that what you are proposing would indeed expedite this kind of activity?

Mr. BANKS. Absolutely, Senator.

What we are dealing with is essentially a 400-percent increase in the growth of traffic within the air express environment, and attempting to do it in the traditional manner is simply not working extremely well. So we are looking for enhanced automation capabilities and other special tests that we can employ to expedite the entire process, while still complying with our enforcement requirements.

Senator DOMENICI. Are there any organized opposition groups to it?

Mr. BANKS. There are certain elements. There are certain groups that are concerned that we would be providing an advantage to the courier industry with these requirements. We will be sensitive to that issue. We feel that we are providing a procedure that can be applied across the board to any industry that can meet the demands that we are going to foster with the air express industry.

Commissioner VON RAAB. Our approach, Senator, with respect to all changes and improvement, using electronic data or modifying our practices, is to open them to all the industry so that the courier practices will be open to other types of carriers, brokers, and others, so that all have equal opportunity to use the modified practices.

Senator DOMENICI. In asking whether you had opposition, I wasn't choosing the opposition's side. Status quo is generally what everyone wants. It seems to me that in this case there will be some opposition, and I just wanted to go on the record indicating that I think you may have to accommodate to those whose business it is to move more expeditiously because that is part of changing times. I would assume that there would be opposition, and you have confirmed it.

REIMBURSEMENT TO STATE AND LOCALS

When the chairman and I were down in his State and mine, we heard from local law enforcement people, and the chairman has asked the questions with reference to cooperating up front, which we heard from some of them, not all but some, was not occurring. I heard your answer.

One of the other things that they talked to us about was reimbursement to State and local law enforcement agencies for joint and special activities, in particular Customs providing equipment, training, supplies, and overtime for local participation in joint interdiction activities.

I am wondering how that is proceeding, and what funding would be needed to provide reimbursement to State and local agencies in 1988, and what level is included in your 1989 budget, if any, for this purpose.

Commissioner VON RAAB. Previously, Mr. Rosenblatt detailed some of the resources that we had transferred or loaned to the State and local agencies—some 600,000 dollars' worth of equipment, 600 radios, and 3 million dollars' worth of seized assets. In addition, the budget under which we are currently operating, has a fund of $750,000 which is available for such matters as reimbursement for overtime or fuel, and other items.

We are currently reviewing this. We have already undertaken discussions with local sheriff departments and police departments to determine the best use of that money. It would be used in joint operations such as many cases under Operation Alliance.

Mr. ROSENBLATT. We have a provision of law in 1988 that allows us to do this. There was no funding provided. What we decided to do was take $750,000 of $1 million out of our forfeiture fund to ensure that this money would be available for State and local law enforcement agencies.

Senator DECONCINI. It is in there now?

Mr. ROSENBLATT. It is part of the $10 million that we have in our budget for fiscal year 1988. What will be done in 1989 will be up to the Commissioner.

Commissioner VON RAAB. Allow me to clarify this. The authorization was there, and I made a decision that we would fund up to $750,000.

Senator DOMENICI. From seized assets?

Commissioner VON RAAB. Yes.

Senator DOMENICI. So we have not appropriated any for that, even though it is authorized.

Commissioner VON RAAB. You are correct. However, we are going to provide $750,000 for that purpose.

Senator DOMENICI. And you will do that again for 1989?

Commissioner VON RAAB. When we review the fiscal year 1989 budget, we will review the results and needs. We are prepared to do something similar if it is authorized.

RESULTS FROM OPERATION ALLIANCE

Senator DOMENICI. It seems to me that it would be helpful to us, since some of us were originators of the idea of the Alliance, I don't expect it now, but could you, for the record, give us a summary of its success, as you see it, such as the number of drug arrests, seizures, and the like, that in some way relates, as you see it, to the concerted effort of the Alliance activities? Would you furnish that for the record?

Commissioner VON RAAB. Absolutely. There are regular reports that the head of Operation Alliance produces, and we will supply you with the most recent report, as well as any summaries that might be particularly useful.

[The information follows:]

OPERATION ALLIANCE

SEIZURE STATISTICS

Drug seizures on the Southwest border have increased dramatically due to the cooperative efforts among Federal, State, and local law enforcement agencies involved in Operation Alliance.

Alliance enforcement efforts in fiscal year 1987, resulted in the seizure of 8,520 kilos of cocaine, more than quadrupling the 1,807 kilos seized in fiscal year 1986. As of February 16, 1988, 2,539 kilos of cocaine have been seized in fiscal year 1988.

In fiscal year 1987, 135,492 kilos of marijuana were seized compared to only 60,409 kilos in fiscal year 1986. As of February 16, 1988, 52,027 kilos of marijuana have been seized in fiscal year 1988.

In fiscal year 1987, 52.6 kilos of heroin were seized compared to 27.4 kilos seized in fiscal year 1986. As of February 16, 1988, 25.9 kilos of heroin have been seized.

The following chart provides a breakdown of statistics for the Southwest land border for fiscal year 1986 and fiscal year 1987 and 1988 to February 16, 1988. This data was provided by the El-Paso Intelligence Center.

ZERO TOLERANCE

The Zero Tolerance Program which was initiated by the Alliance Group in San Diego (in 1986), with the concurrence of the U.S. attorney's office, prosecutes every individual who smuggles any traceable amount of narcotics (personal use) into the United States. The individuals are arrested, given a notice to appear and are charged with a flip/flop which combines a felony importation count (21 U.S.C. 952, 960, and 963) with a misdemeanor possession count (21 U.S.C. 844). The individuals' conveyance is also seized. Statistics on zero tolerance arrests are maintained in San Diego.

Since the inception of the Zero Tolerance Program on December 15, 1986, 995 individuals have been arrested. Of these, 722 individuals have been convicted and disposition is pending on 224 individuals. In addition, 42 individuals have failed to appear and warrants have been issued for their arrest.

Due to the success of the Zero Tolerance Program, it is being adopted along the entire Southwest border. The various offices are presently coordinating with the U.S. attorneys' office to institute the program in the near future.

OPERATION ALLIANCE TOTAL, OCTOBER 1, 1986 TO SEPTEMBER 30, 1987

	Number of seizures	Amount
Marijuana (pounds)	5,298	338,350.023
Cocaine (pounds)	597	18,377.423
Heroin (pounds)	121	109.599
Dangerous drugs (du)	123	337,640
Monetary instruments	408	$12,531,084.62
Weapons		1,638
Vehicles		2,932
Aircraft		33
Vessels		

Note.—In addition to the above totals, the following are seizures which occurred in Mexico and which fall within the definition of Alliance seizures.

—	Number of seizures	Amount	Persons arrested
Marijuana (pounds)	14	10,780.60	32
Cocaine (pounds)	5	1,787.26	38
Heroin (pounds)	6	11.43	16
Dangerous drugs (du)	1	11,368.500	4
Weapons	2	55	
Monetary instruments	1	$100,000	
Vehicles	14	26	
Aircraft	4	4	
Vessels	1	1	

Source: Operation Alliance Command Center (Statistics supplied by the Drug Enforcement Administration, U.S. Customs Service, and U.S. Border Patrol.

OPERATION ALLIANCE TOTAL, OCTOBER 1, 1987 TO JANUARY 31, 1988

	Number of seizures	Amount	Persons arrested
Marijuana (pounds)	1,335	141,494.59	1,629
Cocaine (pounds)	182	5,980.75	182
Heroin (pounds)	31	56.21	27
Dangerous drugs (du)	209	569,514	202
Monetary instruments	120	$7,609,592.92	
Weapons	65		
Vehicles	990		
Aircraft	2		
Vessels			
Other			
Other assets			

Source: Operation Alliance Command Center.

CUSTOMS STAFFING LEVELS

Senator DOMENICI. With reference to staffing, in the 1988 appropriations act, we denied the President's proposed rescission request and restored the reductions and directed Customs to reach a staff level of 16,099 on average for fiscal year 1988, 3,000 above the President's request, and 70 percent were to be allocated for commerical and 30 percent for enforcement.

Could you just generally now, and then for the record more specifically, tell us, are you able to meet these new high levels of personnel? Are your recruiting activities succeeding, and then where are they assigned?

Commissioner VON RAAB. We expect to reach the level of 16,099 in midsummer. Right now, we are at 15,503, and we actually have over 718 commitments out. So we expect to reach that level.

On January 28, I allocated positions in response to the continuing resolution. As I recall, we took a conservative view of commercial operations, meaning, if someone were involved in enforcement, we characterized them as being in enforcement not commercial.

I think the allocations represented 71 percent going to commercial operations. I have a printout which I will be happy to submit to the committee, which details the actual allocations that were made immediately following the passage of the continuing resolution. You will find that 71 percent of the new allocation went to commercial.

Also, there is a compilation of the Southwest border buildup, and the Southeast border buildup, broken down by States, which I indicated is a grand total of 1,800 odd men and women. This is part of the other document that I have given you.

Senator DOMENICI. All right.

Commissioner VON RAAB. That is only the enforcement side. The other paper includes the commercial side. I think you will find this describes very accurately and usefully the increases to Customs that have been made at Customs over the past few years.

[The information follows:]

U.S. CUSTOMS SERVICES INCREASES FOR FISCAL YEAR 1988

(Includes all offices at those locations)

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
NORTHEAST REGION												
Baltimore, MD	7	1	0	0	0	0	0	1	1	0	0	10
Boston, MAS	8	2	17	0	3	8	0	6	2	10	0	56
Buffalo, NY	0	1	0	0	0	0	0	0	2	0	0	3
Ogdensburg, NY	0	1	0	0	0	0	0	0	1	0	0	2
Philadelphia, PA	0	1	0	0	0	0	0	1	0	5	0	7
Portland, ME	0	1	0	0	0	0	0	1	0	0	0	2
St. Albans, VT	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Northeast Region	15	7	17	0	3	8	0	9	6	15	0	80
New York Region												
New York	0	13	51	0	11	0	0	20	1	19	0	115
JFK International	15	0	0	0	0	0	0	5	7	0	0	27
Subtotal, New York Region	15	13	51	0	11	0	0	25	8	19	0	142

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
North Central Region												
Chicago, Ill	10	1	50	0	0	13	0	6	1	6	0	87
Cleveland, OH	11	1	0	0	0	0	0	3	0	0	0	15
Detroit, MI	0	0	0	0	0	0	0	0	1	1	0	2
Great Falls, MT	0	2	0	0	0	0	0	0	0	0	0	2
Milwaukee, WI	0	0	0	0	0	0	0	1	0	0	0	1
Denver, CO	0	0	0	0	0	0	0	1	0	0	0	1
Cincinnati, OH	0	0	0	0	0	0	0	0	0	5	0	5
St. Louis, MO	0	2	0	0	0	0	0	1	0	5	0	8
Minneapolis, MN	0	0	0	0	0	0	0	0	0	0	0	0
Pembina, ND	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, North Central Region ...	21	6	50	0	0	13	0	12	2	17	0	121
SOUTHEAST REGION												
Savannah, GA	0	1	0	0	0	0	0	3	2	0	01	6
Tampa, FL	0	2	0	0	0	0	0	2	1	0	0	5
Miami, FL	51	3	18	0	1	0	0	3	3	3	0	82
Freeport, Bahamas	2	0	0	0	0	0	0	0	0	0	0	2
Norfolk, VA	1	0	0	0	0	0	0	0	0	0	0	1
Charleston, SC	0	2	0	0	0	0	0	1	1	0	0	4
Wilmington, NC	5	1	0	0	0	0	0	2	0	0	0	8
Charlotte, NC	0	0	0	0	0	0	0	0	0	6	0	6
Atlanta, GA	0	0	0	0	0	0	0	0	0	7	0	7

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
Jacksonville, FL	0	0	0	0	0	0	0	0	0	0	0	0
Pensacola, FL	0	0	0	0	0	0	0	0	0	0	0	0
Tyndall, FL	0	0	0	0	0	0	0	0	0	0	0	0
Puerto Rico	0	0	0	0	0	0	0	0	0	0	0	0
Washington, D.C.	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Southeast Region	59	9	18	0	1	0	0	11	7	16	0	121
SOUTH CENTRAL REGION												
Mobile, AL	0	1	0	0	0	0	0	0	0	1	0	2
New Orleans, LA	0	0	8	0	0	6	0	2	0	4	0	20
Memphis, TN	3	1	0	0	0	0	0	0	0	0	0	4
Nashville, TN	0	0	0	0	0	0	0	0	0	3	0	3
Subtotal, South Central Region ...	3	2	8	0	0	6	0	2	0	8	0	29
SOUTHWEST REGION												
Laredo, TX	49	1	0	0	0	0	0	1	1	0	0	52
El Paso, TX	75	4	0	0	0	0	0	1	1	1	1	83
Nogales, AZ	27	1	0	0	0	0	0	2	0	0	0	30
Dallas/Ft. Worth, TX .	0	1	0	0	0	0	0	1	0	3	0	5

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
San Antonio, TX	0	0	0	0	0	0	0	0	0	0	0	0
Houston, TX	0	1	8	14	0	0	0	0	2	10	0	35
Tucson, AZ	0	0	0	0	0	0	0	0	0	0	0	0
Corpus Christi, TX ...	0	0	0	0	0	0	0	0	0	0	0	0
San Angelo, TX	0	0	0	0	0	0	0	0	0	0	0	0
Phoenix, AZ	0	0	0	0	0	0	0	0	0	0	0	0
Albuquerque, NM	0	0	0	0	0	0	0	0	0	0	0	0
Oklahoma City, OK	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Southwest Region	151	8	8	14	0	0	0	5	4	14	1	205
Pacific Region												
San Diego, CA	48	1	0	0	0	0	0	1	2	0	0	52
Los Angeles, CA	5	1	20	0	5	0	0	28	1	13	0	73
San Francisco, CA	6	1	0	0	0	0	0	4	2	0	0	13
Portland, OR	7	0	0	0	0	0	0	2	0	3	0	12
Honolulu, HI	2	0	0	0	0	0	0	0	1	0	0	3
Seattle, WA	0	1	0	0	0	0	0	2	2	1	0	6
San Jose, CA	0	0	0	0	0	0	0	0	0	3	0	3
Riverside, CA	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Pacific Region	68	4	20	0	5	0	0	37	8	20	0	162

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
SUBTOTAL, CUSTOMS OPERATIONS	332	49	172	14	20	27	0	101	35	109	1	860
Other Positions	10	0	14	0	32	4	46	20	4	60	37	227
TOTAL CUSTOMS OPERATIONS	342	49	186	14	52	31	46	121	39	169	38	1,087

Note: Regional cities include some positions which have not yet been allocated by the regions to the districts.

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SOUTHWEST BORDER BUILDUP

STATE	AGENTS	CI	ENF.SUP	INSP	CAN.OFR	INTEL	AIR CREW	TOTAL
			FY 1986					
TEXAS	53	68	9	20	15	10	17	192
NEW MEXICO	7	3	0	0	0	0	14	24
ARIZONA	15	7	4	9	5	1	17	58
CALIFORNIA	17	28	1	31	5	12	16	110
TOTAL	92	106	14	60	25	23	64	384
			FY 1987					
TEXAS	25	37	5	58	0	0	108	233
NEW MEXICO	7	2	0	0	0	0	25	34
ARIZONA	14	4	0	13	0	0	34	65
CALIFORNIA	41	0	11	133	0	8	38	231
TOTAL	87	43	16	204	0	8	205	563
			FY 1988					
TEXAS	8	0	14	131	0	8	3	164
NEW MEXICO	0	0	0	4	0	0	0	4
ARIZONA	0	0	0	27	0	0	4	31
CALIFORNIA	13	0	0	62	0	15	8	98
TOTAL	21	0	14	224	0	23	15	297
			TOTAL SOUTHWEST BORDER BUILDUP					
TEXAS	86	105	28	209	15	18	128	589
NEW MEXICO	14	5	0	4	0	0	39	62
ARIZONA	29	11	4	49	5	1	55	154
CALIFORNIA	71	28	12	226	5	23	56	421
TOTAL	200	149	44	488	25	42	278	1226

SOUTHEAST BORDER BUILDUP

	AGENTS	CI	ENF.SUP	INSP	CAN.OFR	INTEL	AIR CREW	TOTAL
			FY 1986					
SOUTHEAST	59	66	16	-33	0	14	19	141
SOUTHCENTRAL	29	-24	1	1	0	0	6	13
TOTAL	88	42	17	-32	0	14	25	154
			FY 1987					
SOUTHEAST	19	35	13	58	0	6	59	190
SOUTHCENTRAL	55	75	12	22	0	4	42	210
TOTAL	74	110	25	80	0	10	101	400
			FY 1988					
SOUTHEAST	18	0	1	66	2	6	16	109
SOUTHCENTRAL	8	0	6	5	0	0	11	30
TOTAL	26	0	7	71	2	6	27	139
			TOTAL SOUTHEAST BORDER BUILDUP					
	188	152	49	119	2	30	153	693

TOTAL SOUTHERN BORDER BUILDUP

	AGENTS	CI	ENF.SUP	INSP	CAN.OFR	INTEL	AIR CREW	TOTAL
FY 86	180	148	31	53	0	37	89	538
FY 87	161	153	41	284	0	18	306	963
FY 88	47	0	21	295	2	29	42	436
GRAND TOTAL	388	301	93	632	2	84	437	1937

CUSTOMS USER FEES

Senator DOMENICI. I am going to ask one more general question, and then I will submit the rest of my detailed ones, Mr. Chairman, unless we want to stay here for a long time this morning, and I am certainly not suggesting that.

On Customs user fees, could I just go through this with you, Mr. Commissioner. According to the fiscal year 1989 budget, the administration is submitting a legislative proposal to restructure the ad valorem, that is the merchandise processing fee, so that it is consistent with the general agreement on tariffs and trade, GATT, requirements.

The budget says that we need to do that. When will the legislation be submitted, and how does it vary from the current fee structure, and how will this fee be restructured to satisfy the GATT requirements?

Commissioner VON RAAB. With your permission, I would like to have Mr. Martin, from our Chief Counsel's Office, respond to that question.

Senator DOMENICI. I don't want a real lengthy one.

Commissioner VON RAAB. Then maybe we shouldn't have a lawyer respond. [Laughter.]

Why don't we give a quick answer, and then we will provide a more complete answer in writing.

Mr. MARTIN. On Tuesday, we submitted our formal proposal to the Department of the Treasury, which is the first step in the legislative process. The Department of the Treasury will review that amongst the various offices of the Department for their concerns.

Then it will be forwarded to the Office of Management and Budget and probably will have an interdepartmental review to ensure that it, in fact, is the administration's position.

When we prepared this formal proposal, we did it in coordination with the Office of the U.S. Trade Representative, which is the office most concerned with the GATT decisions.

Senator DOMENICI. In other words, you are at the stage where you presented what you think the legislation should be, and it is going through the normal review process. How long does that generally take before it gets up here?

Mr. MARTIN. Senator, I am not quite sure. OMB would know the normal timeframe. This will be much quicker than the normal timeframe because the interdepartmental liaison we had prior to the preparation of it ensures that we have, as close as possible, the type of legislation not only we thought was necessary, but that the Office of the U.S. Trade Representative thought was necessary.

[The information follows:]

The Office of Management and Budget anticipates forwarding the legislation to Congress by the first of April.

The legislation would replace the current ad valorem fee structure with a transaction-based fee established by the Secretary of the Treasury based upon the national cost of providing the customs services related to that transaction. The Secretary would be authorized to revise the fee schedule annually if necessary.

The principal GATT disagreement with the ad valorem fee was that it was inconsistent with GATT articles II:2(c) and VIII:1(a) which require fees to approximate the cost of services rendered. The GATT panel found that the cost of services rendered refers to the cost of Customs processing of individual entries and that the ad valorem fee was inconsistent with U.S. obligations under the GATT to the extent that it caused fees to be levied in excess of the cost of services rendered. The legislation will replace the ad valorem fee with a transaction-based fee that will, as closely as possilbe, reflect the cost of Customs processing of transactions. The legislation does not set forth the schedule of fees but rather requires the fees to be based on the national cost of providing the services for which fees are assessed.

The GATT panel also found that the ad valorem fee exceeded the cost of services rendered to the extent that it included charges for: (1) airport passenger processing; (2) processing export documentation; (3) the international affairs item in Customs commercial operations budget; (4) processing imports exempt from the ad valorem fee; and (5) processing imports during 2 months when the ad valorem fee was not in effect. None of the costs of providing any of these services will be charged to the transaction-based fee under the proposed legislation. The legislation prohibits paying for the cost of processing imports that are exempt from the fee with the money received from imports subject to the transaction-based fee. The legislation does not exempt any imports from the transaction-based fee.

USER FEE RECEIPTS

Senator DOMENICI. Would you please provide us, in that same general area, Mr. Commissioner, for the record, the receipt streams for both the Customs passenger vehicle processing, the COBRA fees, and the ad valorem import, OBRA fees, that are included in the budget, giving us the actual 1987 and the projected 1988 and 1989 and 1990 receipts. I think that would be helpful to us.

Commissioner VON RAAB. Yes; we will.

[The information follows:]

SCHEDULE OF CUSTOMS USER FEE RECEIPTS

[In thousands of dollars]

	1987 actual	1988	1989	1990
COBRA	103,369	122,000	125,000	128,000
OBRA	538,767	662,000	[1] 560,000	[1] 539,000

[1] Reflects proposed legislation to be consistent with GATT; fiscal year 1990 also includes adjustment for the Canada Free Trade Agreement.

NARCOTICS CASE TRACKING

Senator DOMENICI. This is my last question, Senator, and then I will go vote and hurry back so you can go vote.

It seems extremely important to me that we measure our increased interdiction efforts not only in terms of numbers and quantities of seizures, but also in terms of the numbers of prosecutions and convictions. Let me ask you this. How are we tracking what happens to the illegal narcotics violators that Customs apprehends at the border and through its operation and interdiction efforts?

I personally think somehow or another it is important that we follow these cases through the system. It doesn't make a lot of sense to me to spend resources netting these people, if we can't say whether these cases are recommended or declined for prosecution.

Do you know whether we now have an understanding between the various departments that would permit us to have a status on the result of cases recommended for prosecution, to know what the conviction rate is, and other similar relevant information?

Commissioner von Raab. I will initially respond philosophically to your question. I think that we still have a way to go in terms of getting aggressive prosecution of some of the cases. Obviously, the big fish are aggressively prosecuted, but I think we still have some problems at the lower end of the spectrum getting some of the small fry. Some people call them users. I call someone that smuggled drugs into the United States in a small amount a small time drug trafficker, not a user.

The Customs Service is pushing very hard within the administration. I think we have the support of the Attorney General to adopt a program that we call zero tolerance, which is basically a charge to all the prosecutors on the border to be very, very aggressive with respect to charging even the small drug traffickers with effective prosecutions. That program is still weak in some parts of the border.

As far as the tracking system is concerned, I will turn to Mr. Rosenblatt and have him respond to that.

Mr. Rosenblatt. When we make arrests and go forward with prosecution, we track them in what we call a case analysis system–5.

When frontline officers, such as inspectors or investigators, make arrests, and the cases are turned over to Customs special agents, we are able to track those cases through our system. If you are interested, Senator, in the tracking system, we will be glad to brief your staff and determine exactly what figures you are interested in.

However, when we turn over defendants to other Federal agencies, we do not always get the results or dispositions of those cases. We count on DEA's internal system which is comparable to our case analysis system.

The same thing applies with the State and local agencies. Many times, our people make every effort to obtain the disposition, but since it is not our case to follow through, other than the initial stop or seizure, we do not enter it into the system.

Senator Domenici. I know the Senator wants to question.

Senator Mikulski. Senator, when I go to vote, I am not coming back, because I have to preside. Perhaps they could elaborate when you return.

Senator Domenici. All I need, if you can furnish us with the record of how many you turn over, I am sure the chairman will agree, we can get with Justice and see what has happened. I think that this is what we would like to know.

Senator Hatfield has some questions. I will submit them for the record, if you would respond.

Commissioner von Raab. Yes, sir.

[The information follows:]

We are currently collecting data from our automated case tracking system and will provide this data to the committee as soon as it becomes available.

CHILD PORNOGRAPHY

Senator MIKULSKI. Mr. von Raab, I am going to be a little time constrained because I do have to make a vote, and then have to preside at 11 a.m. So I won't be back.

Commissioner VON RAAB. I hope that it is not a party line vote.

Senator MIKULSKI. Never for me. [Laughter.]

First, Mr. Commissioner, I want to thank you for all the work that you have done in the area of drugs. You have been a real leader in that area. Before I go to my drug questions, though, I note that in your testimony you talk about kiddie porn, and your efforts in that area. I kind of break with the American Civil Liberties Union crowd on these kinds of issues.

Could you tell me if, in your budget proposal, you feel you have adequate resources in this area, and if you feel that this is an area of enforcement that is going to grow?

Commissioner VON RAAB. The budgets that we have operated under have never had specific amounts for kiddie porn. I don't know the reason for that. We have large accounts, so I am not saying that anyone has prevented us from actually undertaking our programs.

We have spent a considerable amount of resources in fighting the kiddie porn problem. This began many years ago. As a matter of fact, the amount of traditional kiddie porn currently entering at the borders of the United States has been severely reduced.

There are a lot of questions as to how it is really coming in. There is a rather scary prospect that some of this kiddie porn is now actually being brought in on floppy disks and then transferred through a very sophisticated data technique back onto the printed page. Once you reach a situation like that, it becomes, as you can imagine, extremely difficult.

What we have done, however, is establish a special unit in the Customs Service that we call the child protection unit, and it is staffed by six men and women, including Federal agents. What we do there is follow the progress of any kiddie porn that does enter the United States.

We work very, very closely with the Justice Department and the various police departments around the United States, particularly those urban police departments whose jurisdictions have a serious child pornography problem. It is a very successful unit. We now are maintaining probably the definitive file on violators of our child pornography laws.

We are spending millions of dollars on this effort, but if you are asking if there is a specific line in a particular budget—there is not.

Senator MIKULSKI. But you feel satisfied that your resources are there?

Commissioner VON RAAB. I am comfortable that we are using the maximum amount of resources that we can use effectively.

MARYLAND MARINE DRUG INTERDICTION PROGRAMS AND CET TEAMS

Senator MIKULSKI. If I could talk about the drug interdiction, and I know my colleagues have concentrated on the Southwest. You might recall that in last year's report, I asked you to look at the issue of drugs coming in through the Chesapeake Bay, and talked about the establishment of a marine drug interdiction program in Maryland.

Could you apprise me of the status of that effort, and where the people have been assigned? If that is too specific, this is not meant to be a SAT quiz.

Commissioner VON RAAB. I am somewhat embarrassed. I don't have an answer to that question.

Senator MIKULSKI. Would you be able to tell Mr. Kelly, here on my staff, about the status of that effort. I know that the report also called on you to put a new contraband enforcement team in the Baltimore area. We would like to follow up and talk with you about that.

In ports of entry, your people do an excellent job. I know they seized some marijuana in Baltimore. Drug smugglers, as you have indicated in your report, continually develop new states of art and technology that are hard for us to keep up with. Second, they are always looking for soft spots to come in. We just want to make sure that we are ready in Maryland.

Commissioner VON RAAB. With respect to the CET, we have added seven new inspector positions to Baltimore for general enforcement purposes, including drug interdiction.

Senator MIKULSKI. You have added seven new inspectors?

Commissioner VON RAAB. Correct. As far as the study is concerned, we will have to get back to you on that.

Senator MIKULSKI. Fine.

Commissioner VON RAAB. Mr. Banks would like to comment on that.

Mr. BANKS. Recently the CET team seized almost 20,000 pounds of marijuana that came in a container out of Colombia, and they seized an additional 30 pounds of cocaine that came in from a vessel crew late last year.

Senator MIKULSKI. I know your people are very good, and we are most appreciative of that.

HAGERSTOWN AIRPORT

I would like, if I could, to go to two commercial concerns. One is related to the Hagerstown Airport. Last year, the report asked you to examine having Customs personnel one afternoon a month for international flights at Hagerstown.

That is where travel agents book people. Instead of coming into Dulles, et cetera, we wondered if they could be up there 1 day a month.

I know your staff was concerned that flights from the Caribbean could be carrying illegal drugs. I am on your side on that, but I just wonder what is the status of implementing the report request for that 1 day a week service. Again, you might not have that, but if you could get back to me.

Commissioner VON RAAB. I think that we should address this directly. We, unfortunately, do have a reaction to the report. Mr. Banks, since it is not good news, will deliver it. [Laughter.]

Mr. BANKS. Senator, we have looked at this particular issue. We are not satisfied that we could do it with one person because of the enforcement concerns in this process. It would be very wasteful and draining on our other programs to put a team there for that purpose. It is our consensus that it would not be the best utilization of resources.

Senator MIKULSKI. Even for 1 day a month?

Mr. BANKS. Yes; even for 1 day a month. The problem is, especially on our container efforts with regard to narcotics, all have to be scheduled in advance, and there is a concern to release cargo quickly in that process. When you pull out an entire team during that period, it is going to affect the processing of cargo in Baltimore.

Senator MIKULSKI. I would like to talk with you about that.

Commissioner VON RAAB. We will be happy to talk about it further.

CARGO ENFORCEMENT IN BALTIMORE

Senator MIKULSKI. We also get so many complaints from businesses in Baltimore that enforcement procedures are tougher there than in any other port on the east coast, particularly the South. I am not advocating weak enforcement, but we wonder if there is a consistency for the same commodities from port to port.

I have some questions related to that, actually we would like for the record, a comparison of major east coast ports and the number of examinations they make on each commodity. Then indicate what percentage of the total number of shipments of that commodity these inspections represent.

In the meantime, could you tell me what you are doing to prevent this so-called port shopping?

Mr. BANKS. Yes, Senator; we have been very sensitive to this issue. In fact, we have been in constant discussion with various elements of the trade community in Baltimore and have tried to get specific allegations.

We have investigated every one of those cases. Where there have been discrepancies, we have corrected them. There have been allegations that some ports have been less stringent than Baltimore in doing intensified inspections, and we have corrected that as well.

Senator MIKULSKI. We don't want Baltimore to be less stringent.

Mr. BANKS. We understand that. What we are trying to do is make sure that there is a uniformity of treatment for all importers and all types of products throughout the United States, in addition to just the eastern sea coast.

[The information follows:]

Periodically, the U.S. Customs Service will receive reports from the trade community that one port is conducting a greater number of examinations and more intensive examinations than other ports in the same geographical areas. As a result of these inconsistencies, the trade community claims that importers will ship through ports where they perceive Customs is less stringent and that port shopping can result in a loss of business for the more enforcement-oriented port.

The U.S. Customs Service is very sensitive to this issue, and has taken action to ensure that cargo processing and examinations are uniform between ports.

The selectivity module of our automated commercial system [ACS] allows Customs to target those shipments which require examinations, while allowing the remaining shipments to flow without restriction. It does this through the use of criteria. Steps have been taken to ensure that criteria for similar commodities, importers, manufacturers, and source countries are uniform throughout the country.

In addition, we have also taken steps to ensure that cargo is uniformly processed by standardizing the review of entry documentation and manifests, and clarifying the roles of personnel assigned to these tasks.

Finally, we have standardized cargo examinations by establishing centralized examination stations [CES's] at all ports where they are warranted. These facilities allow Customs to conduct examinations which are thorough and uniform.

Many factors, however, may be present which affect the number and intensity of examinations which are being performed at different ports. These factors include the commodities which are normally imported at the port and the source country of the merchandise which is unladen at the port.

Preliminary research indicates that the percentage of merchandise which arrives in the district of Baltimore, and is examined by Customs, is greater than many other east coast ports. At the present time an analysis is being performed of Baltimore and other major east coast ports in order to determine why Baltimore's rate of examination exceeds that of other east coast ports. This analysis will include consultations with the Baltimore Customs district office. As soon as this analysis is completed, the findings will be made available to Congress.

HIGH TECHNOLOGY EXPORT ENFORCEMENT

Senator MIKULSKI. I would like to come back to the export control enforcement that you have. There again we are supportive because I know, again, it is technology related. You are also taking a very keen eye at the exporting of illegal weapons and munitions.

One of the concerns we hear, though, from the high tech community is that high tech is a sophisticated field, and yet a lot of little boxes going out look alike. The concern is on the training of the Customs inspector.

As goods go to the ports, if they look at something—I am going to make up an example—they don't know whether it is an artificial insulin pump that has no major reverse engineering or technical ramifications, or if it is something that looks like a little box of microchips that has highly significant strategic stuff. So when in doubt, your inspectors warehouse it, and then there are these delays, et cetera, et cetera.

Again, we just wonder there about the training of the staff and is that a concern to you?

Mr. BANKS. Yes; it is a concern to us, Senator.

Senator MIKULSKI. Yet, at the same time, the field is so sophisticated.

Mr. BANKS. The level of sophistication has increased tremendously. We have put people on this particular program and have not rotated them off simply to make sure that we have the highest level of expertise we can maintain. In addition, we do have instantaneous response capabilities with our Exodus Command Center in which we can get immediate advice on many products.

We have arranged procedures whereby we can let certain shipments leave. We even get to the point of posting bonds so that if we find out later that a violation occurred, we can have the violation corrected or have the shipment brought back.

At this point, we warehouse the shipments only if there is a very, very strong concern and we need the technical specifications to be shipped either to the Exodus Command Center or to the Department of Commerce.

Senator MIKULSKI. Do you find that there are certain ports of exit that are more high tech oriented?

Mr. BANKS. Yes.

Senator MIKULSKI. What are they?

Mr. BANKS. We are dealing with a whole variety of ports, and even within high tech, it varies according to the type of high tech business. If you go out to the Silicon Valley area, into San Francisco, they deal with an awful lot of micro chips. They deal with printed circuit boards, and that sort of activity. It varies according to the area. We get into munitions and some military high tech issues.

Senator MIKULSKI. I know that that is even more sensitive. You know, we sometimes have these unintended barriers to competition that we place on ourselves, and this is one of the areas.

Thank you. There are 6 minutes left on the vote, and I am going to dash. I look forward to further conversations on these items.

Commissioner VON RAAB. Thank you, Senator.

Senator MIKULSKI. I have additional questions for the record.

P-3 FLYING HOURS

Senator DECONCINI. Mr. Commissioner, go back to the P-3 for just a moment. Mr. Rosenblatt can bring me up to date on that.

Two years ago, we had problems, as you will recall, not having pilots, not being able to keep the P-3's up. I would like to know how many hours they are flying and, let's say, for the past 6 months, what their monthly hours have been. If you could supply that to us, or do you have it?

Mr. ROSENBLATT. I don't have it with me, but we will supply it for the record.

[The information follows:]

AIRCRAFT FLIGHT HOURS BY YEAR AND MONTHLY AVERAGE FOR FISCAL YEAR 1987 AND THROUGH JANUARY FISCAL YEAR 1988

P-3A

Bureau number	Fiscal year— 1987	Fiscal year— 1988
150514:		
Total	533	565
Monthly average	44	141
151395:		
Total	625	505
Monthly average	52	126
151390:		
Total	700	626
Monthly average	58	157
152170:		
Total	602	81
Monthly average	50	20

P-3 FLYING HOURS

Senator DECONCINI. What is it doing roughly now in the Tucson sector?

Mr. ROSENBLATT. As of October, on some of the aircraft we are achieving almost 100 hours. I think it is averaging around 80 to 88 hours.

Senator DECONCINI. The 100 hours was the objective.

Mr. ROSENBLATT. Exactly, and we have a requirement that when we start reaching 100 hours for all the aircraft, we are to advise your committee.

Commissioner VON RAAB. I might say that the Navy is amazed at our ability to even approach 100 hours. Their figures are much lower.

Senator DECONCINI. They are much lower, as I recall.

You, obviously, have been able to iron out your logistic problem with pilots, and what-have-you?

Mr. ROSENBLATT. Yes; we are doing very well in our hiring effort. Not counting the positions that we have gotten this year, we were at the 809 position level and we are showing approximately 97 vacancies. Let me add quickly that there are only 54 positions actually uncommitted. The reason that this happens is due to turnover. There is a constant turnover of pilots because of competition with the airlines. Equally important, we want to make sure that we bring the crews on board at about the same time as the other aircraft.

Senator DECONCINI. Are you able to do that?

Mr. ROSENBLATT. Yes; with the hiring mechanisms that we have developed in cooperation with the Treasury Department and OPM, we are on a fast track. We have some difficulty, which we are working through with the cooperation of the Treasury Department and our Glynco staff, in training. There is a backup in training.

Senator DECONCINI. You mean training the pilots as Customs agents.

Mr. ROSENBLATT. As law enforcement officials. As you know, Mr. Chairman, the pilots have to get out of the aircraft on occasion.

Senator DECONCINI. I am not trying to promote problems, but what kind of time schedule are you behind, do you know, offhand, that they are not able to take your people?

Mr. ROSENBLATT. They are still going to fly.

Senator DECONCINI. They are going to fly even though they are not trained for Customs.

Mr. ROSENBLATT. They are not trained on the law enforcement side. When we hire these pilots, they are pilots.

Senator DECONCINI. You take them off the flights when they have places for you at Glynco?

Mr. ROSENBLATT. That is exactly what we do.

Senator DECONCINI. What about the new airborne early warning aircraft that is due to come on in March, do you have pilots and people for that?

Mr. ROSENBLATT. Yes.

Senator DECONCINI. They are ready to go?

Mr. ROSENBLATT. Yes.

OVER-THE-HORIZON RADAR

Senator DECONCINI. Mr. Commissioner, you requested $14.8 million for over-the-horizon radar as a potential air detection system for the Customs interdiction program. As you indicated, the Department of Defense has been testing this concept for military purposes for some time. In fact, the Air Force spent a total of $157.3 million on over-the-horizon radar in fiscal year 1987, and $173.1 million in fiscal year 1988, and projects another $208 million for fiscal year 1989, the 3-year total being $539 million—God, I hope it works. [Laughter.]

Why in the world would Customs spend $14.8 million—I realize it is a small amount—of its air program if the Air Force is spending hundreds of millions for the operation?

Commissioner VON RAAB. I don't really know the answer to that. This basically came out of OMB. I really regard that as a reserve for air expenditures.

Senator DECONCINI. You mean that it came out of OMB, they told you to do it?

Commissioner VON RAAB. They put it in our budget.

Senator DECONCINI. They plugged it in. Maybe we will ask OMB. Would you track that back and find out what the justification is for that? There just seems to be so much money spent on that. I just don't know why this showed up in your budget.

Commissioner VON RAAB. I have not been able to track it back.

Senator DECONCINI. You haven't?

Commissioner VON RAAB. No.

Senator DECONCINI. I would love to keep the money and use it for something else in Customs to tell you the truth. We will track it back.

SOUTHWEST BORDER FACILITIES

As you know, Mr. Commissioner, Senator Domenici and I embarked on a 3-year effort to fix up the Southwest border facilities from Texas to California. In fiscal year 1988, we provided $29 million plus another possible $12 million in unobligated funds to be applied to a number of important high priority Southwest border projects.

The conference report accompanying the continuing resolution makes it clear that GSA and Customs, and other Federal tenants at the border facilities, should coordinate the final priority list of projects with members of the border trade community. I think that Customs will be a major beneficiary of this border initiative.

Can you give us specific action you have taken to get going on these Southwest border facilities? Tell us what you are doing with GSA at the same time, and with the trade community.

Mr. BANKS. Mr. Chairman, we have taken an active role in this entire exercise.

Senator DECONCINI. Can you hold for just a minute?

Mr. BANKS. Yes, sir.

Senator DECONCINI. Sorry, Mr. Banks, go ahead.

Mr. BANKS. Mr. Chairman, we have set up a border station improvements task force. It is presently comprised of Government officials from GSA, INS, Agriculture, and ourselves. They have met twice, January 27 and February 16, and are currently setting out a list of priorities. We also will be meeting with the border trade alliance in order to get trade input into this entire process.

Senator DECONCINI. GSA is actively part of this?

Mr. BANKS. Absolutely, sir.

Senator DECONCINI. How is it going?

Mr. BANKS. I think it is going extremely well. I think we are making a lot of progress in identifying those locations which will benefit most from the moneys which the Congress has provided.

Senator DECONCINI. Maybe you can help me with those questions, too, Mr. Banks. I am going to turn to some commercial questions.

PAIRED PROGRAM

McKinsey & Company, a well-known business management consulting firm, recently completed a detailed review of Customs commercial operations. One of the many recommendations that the report makes is that Customs allow entry and summary to be filed in a separate location from where the goods are entered. The proposal sounds very much like the current PAIRED program.

Can you briefly explain that PAIRED program, the new McKinsey proposal, and why custom brokers and other elements of the trade commission oppose the concept?

Mr. BANKS. Yes, Mr. Chairman; McKinsey is actually taking a broader perspective than the program that we currently have, which is called the PAIRED system. PAIRED permits an importer to file an entry at one port, typically the port of destination, and for the goods to be released when they come in at a different port.

The reason that we introduced this program is because with the way that we have operated in the past in which we required a shipment to come into one port, to move under specific controls into another port where the entry would be filed, actually causes almost an artificial routing of that merchandise. We have set up a system which is not really the most cost-effective means for the importer to bring goods into this country.

By allowing an entry to be filed at a port of destination, the importer actually is allowed to file an entry where it is most convenient to that importer. We don't artificially constrain the routing of the goods. We receive the entry at one port. We make the decision, and we release that entry at that same port where the entry is filed. That release information is simply transferred through the automated system, and the shipment is free to go without any additional paperwork being created and without any artificial constraints.

Senator DECONCINI. Why is there opposition from the trade community?

Commissioner VON RAAB. Let me try to answer that, Senator.

I don't think there is opposition from the general trade community. I assume there would be some customs brokers that might oppose this. If a customs broker is located in a particular city through which, by virtue of the constraints of the Customs rules, goods had to pass, this system would allow those goods to bypass that city and go directly to their point of destination. For that reason, that customs broker in that city would lose that business, business that he is getting only because of an arbitrary rule of the Customs Service.

It is basically a situation in which, because we are operating under a 200-year-old scheme that was basically designed for sailing vessels, we have arbitrarily caused certain locations in the United States to be Customs locations. Now we are trying to let the free market in transportation determine where it should go. There will be some locations that, for one reason or other, might lose some business. I don't mean transportation business, but filing business. That is the reason that some might be opposed.

In the review that our team did with 80 companies, including brokers, carriers, and importers, there was an overwhelming support of this free market approach to the introduction of goods.

Senator DECONCINI. I have talked to a lot of them, and not all of them oppose it.

Commissioner VON RAAB. Yes.

Senator DECONCINI. I just really wanted to know where you were coming from, for the record. I don't know the merits of it. If it is only because of the loss of business, I can understand economics, too. I can also accept the change in commerce.

Commissioner VON RAAB. The ultimate cost to the consumer will be less because that dog-leg, if you will, won't be made any longer.

Mr. BANKS. It is redundant paperwork.

Senator DECONCINI. I may submit some other detailed questions on that subject matter, Mr. Commissioner, that you could help us respond to some of these complaints.

AUTOMATED COMMERCIAL SYSTEM AND AUTOMATED BROKER INTERFACE RESPONSE TIME

Mr. Banks, the committee expressed concern about the automated commercial system, or ACS, at Customs, particularly an apparent failure to meet its commitments to the trade community on response time for entries. There was also concern about Customs' failure to allocate sufficient resources to the automated broker interface, ABI, elements of the ACS.

GAO is examining the ACS program, and Customs' efforts to fully implement it. What progress can you report to us on the ACS, and particularly the automated broker interface part of that program?

Commissioner VON RAAB. Senator, if you will permit, Gene Mach has been waiting to answer questions about the automated commercial system.

Mr. MACH. Mr. Chairman, a report was submitted to the committee in November. At that time, we did have problems with the ABI response time. I am not going to say that the response time was great. It has improved now to the point that we have response time reduced to 15 minutes or less after an entry is submitted. We think that that is outstanding.

As far as resources go, the last allocation, the January allocation, gave 41 additional positions specifically for the ACS program, including several for what we call ACS-ABI, automated broker interface client representatives.

If the industry has a question or a problem with their system, or need information from our ACS system, these representatives will assist. They respond to the interests of the exporting community.

Senator DECONCINI. That is encouraging. Thank you.

Mr. Commissioner, I want to go back to the air program, and probably Mr. Rosenblatt.

C^{3}I CENTERS

As you know, title II of the continuing resolution for fiscal year 1987 appropriated $25 million for establishing the three C^{3}I centers by Customs. Another $7 million was assumed in the amount of the money that the Congress provided in fiscal year 1988. The centers will be located at March Air Force Base in California; Richmond Heights, FL; Oklahoma City. The Drug Policy Board strategy document reflects the importance of the C^{3}I center in the overall drug interdiction effort.

What is the status of the construction of these centers at these different places?

Mr. ROSENBLATT. Mr. Chairman, we have had some difficulty in making sure that this program arrives on earlier milestones, but I have been assured by the contractor that the March Air Force Base system will open by the end of April or beginning of May. The Miami C³I would be opened in August 1988.

We recently discovered we had a slippage, and I apologize to this committee, relative to the Oklahoma center. We expect to break ground some time between August 1 and August 15. We would then open that center no later than March 1989.

However, let me insert this, if I may. As you may be aware, we have temporary facilities at the Will Rogers, but we will not have the space or the hardware and the data links that are necessary.

Senator DECONCINI. How much money is required in fiscal year 1989 to complete the upgrade and pay for O&M? You can get that for the record.

Mr. ROSENBLATT. I think that it is in terms of around $14 million, but allow me to get it for the record.

Senator DECONCINI. That is in your request here?

Mr. ROSENBLATT. No.

[The information follows:]

COST OF C³I UPGRADE AND O&M

The fiscal year 1989 President's budget contains $7.3 million for the operation and maintenance of C³I centers.

We will be in touch with your office to define the need for an upgrade and the costs associated with such an improvement.

LARGE-SCALE CARGO X-RAY SYSTEMS

Senator DECONCINI. I want to talk about large-scale cargo x rays. There is little doubt that the drug smugglers are changing their mode of operation as a result of your success in the Air and Marine Interdiction Program. The use of cargo containers on ships and aircraft has become a very serious problem.

In your justification, you indicate that your fiscal year 1988 and 1989 program calls for continued exploration of the use of large-scale x-ray systems and portable contraband detectors to detect drugs in baggage and cargo.

Where are we in this technology with equipment that will be able to detect drugs in large cargo containers on commercial airlines and the like? How much will you spend in 1988 and 1989 to develop this prototype?

Mr. BANKS. Mr. Chairman, we currently have portable contraband detectors. We also have fiber optic scopes. We have about 10 in the current version, and the concept is being enhanced today based upon those experiments. They seem to work fairly well. They have been primarily successful on things other than containers, but we are experimenting with them on containers as well.

On the large x-ray system, it is a massive undertaking to even experiment or test this concept as to whether or not it could be useful.

Senator DECONCINI. Are you testing it now?

Mr. BANKS. No, sir; we are not testing it. We have a request for proposals out asking for potential vendors that would be willing to join us in an experiment of a large x-ray system. We are also seeking a port authority to join along with that enterprise. I can't absolutely tell you that this is going to come to fruition this year. Nonetheless, right now it looks fairly encouraging.

Senator DECONCINI. What is your time schedule for your request for proposals?

Mr. BANKS. We have gone out with an interim proposal to acquire concept papers from the industry. By late summer, we will probably have our final request for proposals to actually go out with an experiment. We anticipate that it could be up in fiscal year 1989.

Senator DECONCINI. You have money requested here for that; is that right? Do you have 1988 money to do what you are doing now?

Mr. BANKS. Yes; there is some fiscal year 1988 money.

Senator DECONCINI. Do you know how much that is?

Mr. BANKS. I am not sure exactly what that is at this point. I will supply that for the record.

Senator DECONCINI. Is it coming out of your research and development budget?

Mr. RILEY. We will get the breakdown, because we don't know right now how much that is.

Senator DECONCINI. Thank you.

[The information follows:]

FISCAL YEAR 1988 COSTS FOR LARGE-SCALE X RAY

At this point we are still reviewing requirements to determine how much will be needed in fiscal year 1988 for large-scale x-ray systems.

STATE DEPARTMENT AIR WING

Senator DECONCINI. Mr. Commissioner, it is my understanding that over the past few years, the State Department has established a regional air wing consisting of 21 aircraft, including 14 helicopters. This wing is supposed to be available to move into a host that requests antidrug assistance and help with eradication or the movement of people, or whatever. Frankly, I am not sure I want the State Department in the air interdiction business, but if they have these resources, we should put them to use.

Have you or the Coast Guard called upon this air wing to assist in your efforts in the Bahamas or the Dominican Republic or any place else?

Commissioner VON RAAB. No; to tell you the truth, I wasn't aware of the existence of this air wing until yesterday. So it is obvious that we have never called on them for any assistance.

Senator DECONCINI. Would you become aware of it please, and see what kind of availability they have. It seems to me that we may want to address the feasibility of it. But before I do that, I would hope that Customs and Coast Guard would familiarize themselves with it and see if they are available. I can't imagine that they are using all those 21 aircraft on a day-to-day basis, because we don't see it.

Mr. ROSENBLATT. The Commissioner and I became aware of this yesterday, but I did some quick research. They are mainly used, as I understand it, for eradication and the transportation of source country law enforcement personnel.

Senator DECONCINI. Where are most of them, do you know? Are they in Mexico?

Mr. ROSENBLATT. Yes; my understanding is that they are in Mexico and South and Central America.

My concern, Mr. Chairman, is that one of the things that we are trying to do in our scheme of things is standardization and make sure we have the right aircraft. From the information I got late yesterday evening, these aircraft are nonsensored. If they had capability, it would be eyeballing in the daytime.

Senator DECONCINI. It wouldn't help you much.

Mr. ROSENBLATT. As you know, we have a certain speed requirement for our interceptor/trackers. I am led to believe that they do not have the burst of speed that we need. I will look into it further.

Senator DECONCINI. We will look into it, too, and ask for an inventory, and what kind of capabilities they have.

You have no problem, Mr. Commissioner, I presume, or Mr. Rosenblatt, in making contacts with the State Department and seeing what they have and what, if anything, is available?

Commissioner VON RAAB. We have no problem.

Senator DECONCINI. It seems that if they have helicopters that are in this country or near our border, they might be of assistance to you, but I don't know.

Mr. ROSENBLATT. If they do have these aircraft and they are available, they would have to be put under the C^3I configuration when they are performing law enforcement activities to ensure that they are law enforcement trained. That would be one of my principal concerns, Mr. Chairman.

TWIN-ENGINE HELICOPTERS

Senator DECONCINI. While we are talking about helicopters, last year Congress appropriated almost $12 million for the procurement of three twin-engine utility helicopters for use in the Customs program.

What is the status of this procurement and what is the timetable for it? Where will they be deployed upon delivery?

Mr. ROSENBLATT. We have issued the RFP for this particular procurement. The due date is February 29 for potential bidders. We would then evaluate all of the proposals and make the award at the beginning of June. Actual delivery is anticipated 9 to 12 months later.

Right now, we are not exactly certain where they would be located, depending upon the aircraft. They may operate on the west coast, on the western side of our border, or the eastern side. But right now, tentative locations are Miami, Jacksonville, New Orleans, San Diego. We might move around some of our current helicopter inventory.

Senator DECONCINI. Besides this, what are your remaining helicopter needs to fully implement your air module concept?

Mr. ROSENBLATT. Using the module concept for truly law enforcement apprehension aircraft, we believe we need a total of 16. We have 12 so far.

Senator DECONCINI. These 3 are not included in the 12?

Mr. ROSENBLATT. Preferencewise, Blackhawks. We are going to try to acquire, as close as we can possibly get in a very objective procurement process, what we would call law enforcement/apprehension/air interdiction helicopters.

Senator DECONCINI. Mr. Commissioner, I would like an inventory of all the aircraft that Customs presently has the capability——

Commissioner VON RAAB. We will provide it.

Senator DECONCINI. I would like to see in a chart or something that is easy to decipher what you have, and what you need to fill your long-term objectives here. If it is not impossible to break down, I would also like to see how much time these airplanes and helicopters are being used.

Commissioner VON RAAB. We have good records on that.

Senator DECONCINI. I think we have to be very careful that we get the maximum use of these aircraft when it comes time to justify this program a few years down the road, and that we are not leaving them unattended or unused for long periods of time.

Commissioner VON RAAB. I think you will find that we are flying the daylights out of our planes.

Senator DECONCINI. That is what I hope you are doing.

[The information follows:]

PRESENT AIRCRAFT DEPLOYMENT BY USE CATEGORY, MARCH 2, 1988

Function	MIA [1]	JAX [1]	MSY	HOU	CRP	SJT [1]	ABQ [1]	TUC [1]	SAN [1]	Total
Detection:										
P-3A					4					4
E-2C					2					2
Interceptors: Citation II	2	1	1			1		1		6
Trackers:										
Piper Cheyenne IIIA (CHET)	2		1	1		1	1	1	1	8
Beechcraft King Air (B200)		1		1		1	1			4
Beechcraft King Air (E-90)								1		1
Apprehension: UH-60A Blackhawk	2	1	2	1		2	1	2	1	12
Subtotal	6	3	4	3	6	5	3	5	2	37

See footnotes at end of table.

PRESENT AIRCRAFT DEPLOYMENT BY USE CATEGORY, MARCH 2, 1988—Continued

Function	MIA [1]	JAX [1]	MSY	HOU	CRP	SJT [1]	ABQ [1]	TUC [1]	SAN [1]	Total
Enforcement support:										
Twin	7	7	3	2	2	3	2	2	2	30
C-12 (Beech King Air B200)	1		1			1	1	1	1	6
Single engine		1		1			1	2	1	6
Helicopter		2	1	1		1		1	2	8
Subtotal	8	10	5	4	2	5	4	6	6	50
Total	14	13	9	7	8	10	7	11	8	87

[1] Includes aviation units.

NOTE.—The following aircraft are not included above because of their status:
Piper PA-31 (San Antonio)—Pending transfer to the State Department.
Bell UH-1M (Albuquerque)—Held in connection with litigation.
680F Commander (Miami)—Declared excess (pending release by GSA).
C-210 (Albuquerque)—Declared excess (pending release by GSA).
Four Citation II's awaiting modifcation are also not included above.
Aircraft on loan: Cessna 210—New Mexico State Police; Cessna 206—U.S. Ambassador to the Bahamas; and Cessna 210—Terrebonne Parish Sheriff's Office.
Fleet increase from 86 to 87 resulted from acquisition of a Piper PA-31 at Jacksonville. The PA-31 replaced a Beechcraft Duke that was declared excess.

STATE DEPARTMENT CERTIFICATION PROCEDURES

Senator DECONCINI. Let me go to the question of certification. I understand that the Department of State is still in the process of formulating the report to Congress on the certification or decertification of drug source and transshipment countries to receive economic assistance, trade preferences, and so forth. Our hearings on Monday focused in large part on the cooperation of the Bahamas as provided to the United States in fighting drugs.

I would think that the Department of State would solicit your input in making their decision since you are the frontline drug interdiction agency. Have you been asked for your views on certification, and what cooperation do you have with the State Department on certification in general, not only for the Bahamas, but Mexico, Colombia, or anywhere else?

Commissioner VON RAAB. We recently sent a letter to the State Department characterizing our feelings about the countries that are up for certification. It was sent over earlier this week. It did not contain a recommendation on certification.

Senator DECONCINI. It did not?

Commissioner VON RAAB. No; I was informed that I was not the proper official to suggest certification or not. It merely has a general statement of our feelings about it.

Senator DECONCINI. What is your opinion on certification as it relates to the Bahamas?

Commissioner VON RAAB. I am not supposed to have an opinion on that.

Senator DECONCINI. Heavey from your organization was at our hearing, and he said yes. Do you concur?

Commissioner VON RAAB. To what?

Senator DECONCINI. To certification, that the Bahamas should be certified.

Commissioner VON RAAB. I think that our comments on the Bahamas were generally positive. We feel that the cooperation we are receiving at the law enforcement level is very good. We are comfortable with the response that we are getting from the Bahamas.

Senator DECONCINI. I realize that the State Department is very sensitive. They have not come down for or against it even though there are reports otherwise.

MEXICAN COOPERATION IN DRUG LAW ENFORCEMENT

What about Mexico, Mr. Commissioner?

Commissioner VON RAAB. My comments about Mexico were universally negative in terms of cooperation and the performance of Mexican law enforcement in drugs.

Senator DECONCINI. Have you found any improvement over 1 or 2 years ago, or is it just as bad or worse?

Commissioner VON RAAB. I speak here only on behalf of the Customs Service, because there are a number of agencies involved in cooperative efforts with the Mexicans.

Senator DECONCINI. I understand.

Commissioner VON RAAB. We have not seen any improvement on the ground. However, there are a number of prospects for better cooperation. For example, Mr. Rosenblatt will be going to Mexico shortly to discuss possible joint air efforts with the Mexicans. I hope that something will come out of it.

Senator DECONCINI. Lots of luck, Mr. Rosenblatt.

Will your discussions include potential cooperation as you have with the Bahamians, with some of their law enforcement people on board, and hot pursuit?

Commissioner VON RAAB. I think we view our operation with the Bahamians as a model type of cooperative operation. We will be talking about our good experiences in the Bahamas and try to encourage the Mexicans to adopt the same sort of approach.

NARCOTICS CASE TRACKING FOR THE BAHAMAS

Senator DECONCINI. The Attorney General, Mr. Adderley, testified and was questioned at some length by Representative English about the statistics as they relate to the type of arrest and the disposition of the drug cases that have been made in the Bahamas with United States cooperation and separately. They have a very impressive list of 1,200 some drug busts over the last year, but he could not give us any detail as to their being foreign nationals, facilitators, being Bahamians, and small users.

What do you do about that? Don't you have an interest in knowing what happens to some of those cases that you are involved in, and do you get any reports from them?

Commissioner von Raab. We discussed this with respect to U.S. prosecutions in response to Senator Domenici's question. I think we have the same problem with the Bahamas. We don't make the arrest, of course, in the Bahamas. The Bahamian officers who are on our ships or helicopters make the arrest. We don't have a very good feedback mechanism on those cases.

Senator DeConcini. The Attorney General said that it is just because you don't ask. Do you ask for periodic meetings or reports on what has happened to those cases?

Mr. Rosenblatt. Now that we have recently established personnel in the Bahamas, they will be tasked on a regular basis to follow up on anything that we are involved in from Operation Bandit or from the Gun Cay operation, where the Bahamians effect the arrest. We will be asking our representative in Nassau to get that information.

We will try to get information about prior arrests, but this is very difficult because, although we provide the means of transportation, the Bahamians effect the arrests.

Senator DeConcini. I got the feeling from the Attorney General that he would be more than happy to tell you anything you want, all you have to go is ask. If that is the case, I would ask that you ask them for 1986 and 1987 disposition, and maybe even 1985, how many drug related case arrests were made and what happened to them, particularly those that our country is involved in.

[The information follows:]

We have requested that DEA Nassau provide all data concerning Operation Bandit, Operation BAT and Gun Cay arrests and seizures turned over to DEA by Customs. Once this data is available we will forward it to the committees.

DESTRUCTION OF CONFISCATED DRUGS IN BAHAMAS

Senator DeConcini. Likewise, Mr. Rosenblatt, Mr. Adderley talked about the policy on the destruction of confiscated drugs. He said: our policy is that we destroy them as soon as the court releases them. We asked if our representatives could be present. He said, yes, all they have to do is ask. He said that you have now asked, I don't know if he said 6 months or 12 months ago, and you are present sometimes.

What is the procedure now on the destruction in the Bahamas?

Mr. Rosenblatt. Since DEA has the lead authority in the foreign country, it is my understanding that in 1987 they witnessed the destruction of approximately 2,000 pounds of cocaine. I share your concern about the destruction, and I think that is something in which the lead agency should be involved.

Senator DeConcini. Do you have a relationship with DEA which allows you to discuss this, to see what they are doing?

Mr. Rosenblatt. Our personnel are sharing offices or are in close proximity to the DEA forces there.

Senator DeConcini. You must want to know, too.

Mr. Rosenblatt. Absolutely.

Senator DECONCINI. I would think that it would be extremely important to you.

I have one more question, Mr. Commissioner, and then we will call it a day.

FEDERAL EMPLOYEE DRUG TESTING

The subcommittee has been deeply involved with the implementation of the President's Federal Drug Testing Program, as you know. You participated in the negotiations as did the Attorney General. We spent a long time in discussions. We had votes on the floor. Senators Domenici and Mikulski, and Congressman Hoyer were here. I thank you for that cooperation.

I am informed that all of the so-called first tier drug testing plans are in, and that certification is imminent. Can you tell us about how your drug testing program is progressing? Give us both the good news and the bad news, if you have them both; and how much money is in your fiscal year 1989 budget for drug testing program, and how it compares with 1988.

Commissioner VON RAAB. Our program was implemented on June 27, 1986. Up until the injunction on November 14, we tested 802 people. We reimplemented drug testing when the injunction was lifted, and we tested another 2,861 people, for a total of 3,663 people. From these tests, we have had four marijuana positives, and one opiate positive. Our cost for primary screening is approximately $45. If we have to go to confirmation, it costs another $51.

Generally, the program is very good. We haven't had many positives, so I think it has caused people who may be taking drugs not to apply for employment in the Customs Service.

As far as our drug testing costs are concerned, we spent $26,000 in actual expenses through December 1987. We project 1988 costs at $175,000, and the 1989 costs at $225,000.

Senator DECONCINI. You talk about $45 if you go to confirmation.

Commissioner VON RAAB. If we don't have a positive initial test result, we don't go to a confirmation test.

Senator DECONCINI. You don't do anything further than the initial test. Obviously, the cost relates a great deal on how many initial positives.

Commissioner VON RAAB. We don't have many.

Senator DECONCINI. That is encouraging.

Have you been following the guidelines put out by HHS on the laboratories, and what-have-you?

Mr. MARTIN. We are exempt from HHS guidelines because our program was in effect beforehand. We are meeting regularly with Treasury, Justice, and HHS on our random drug testing.

Senator DECONCINI. What guidelines are you following then?

Mr. MARTIN. Ours very closely parallel those.

Senator DECONCINI. Have you sat down and gone over them with HHS?

Mr. MARTIN. Yes.

Senator DECONCINI. Is there any reason why you can't bring them into compliance with HHS?

Mr. MARTIN. We are complying with HHS.

Senator DECONCINI. You are complying with HHS?

Mr. MARTIN. We are tougher than their guidelines.

Senator DECONCINI. There is no question that you are complying with HHS and even better?

Mr. MARTIN. Yes, sir.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Mr. Commissioner, thank you for being with us. Please tell the Secretary that we appreciate it. We do have a number of questions that we will submit to you, Mr. Commissioner and your staff, if you would answer them for us, we would appreciate it.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

FEDERAL EMPLOYEE RETIREMENT SYSTEM (FERS)

Senator DeConcini: Your budget justifications reflect a significant re-estimate of your Federal Employee Retirement System or FERS costs this year, as compared to last year. You indicate that you will be able to save $19.7 million in fiscal 1989.

Tell us what is happening in your agency regarding FERS and why are you so confident that you can make such a dramatic reduction from FY 1988 to 1989?

Commissioner von Raab: Original FERS estimates prepared in accordance with OMB standard procedures included 40 percent of the Civil Service Retirement System population in FY 1988 having switched into FERS. The actual switch rate within Customs (as well as governmentwide) has been well below this.

The original OMB procedures incorporated agency contribution rates which have been revised downward at OPM's direction. Revised calculations and savings from initial estimates were prepared in January 1988 following new OMB guidelines.

DETAILEES

Senator DeConcini: As you know, the Conference Report on the Continuing Resolution calls for detailed reporting of detailees by most of the Federal agencies, except certain intelligence agencies. I do not find any mention of Customs use of detailees in your budget justifications. The Conference Report directs that each agency's report be presented to the Appropriations Committees concurrently with the President's annual budget submission.

What can you tell us about Customs use of detailees; how many employees do you have detailed to other agencies; and where is your report?

Commissioner von Raab: Below is a breakout of Customs detailed employees in FY 1988.

Number of Employees	Agency
1	State
1	Commerce
1	NDPB
2	White House
2	Treasury Department

In addition, Customs presently has 750 agents working with the Secret Service on providing protection to 1988 Presidential candidates. Of this amount 400 are traveling details -- this is, agents traveling with the candidates on campaign and providing residence protection. The remaining 350 are considered post standers. They are available to provide protection at their assigned posts when candidates campaign in the area.

A full report on Customs use of detailees will be forthcoming to the Appropriations Committees.

TRAVEL INCREASE SINCE FY 1987

Senator DeConcini: As you know, Commissioner, the Senate Appropriations Committee is firmly on record in support of substantial cuts in travel in fiscal year 1988. The Committee recommended a cut of $3,191,000 below the President's request for Customs in fiscal year 1988. Yet I notice that your travel budget has increased by 49% since fiscal year 1987 and went up 46% between fiscal year 1987 and 1988.

Why hasn't Customs been able to cut back on travel over the past three years? I realize that you have had an increase in positions, but it would seem that your travel requirements should remain flat at best, or drop as mandated by the Senate Committee.

Commissioner von Raab: The travel budget in FY 1987 reflected the original proposed staffing reduction associated with the proposed FY 1987 rescission. Although the reduction did not occur, allowance was not made for additional enforcement positions hired in the latter part of FY 1987. During the last part of fiscal year 1987, use of travel funds was limited, thus restricting Customs Enforcement programs. Without adequate travel funds, more enforcement personnel will be forced to stay at their desks, thus restricting investigations and undercover and special operations.

Enforcement personnel hired late in FY 1987 were not fully operational, requiring full travel funding, until this year. Staffing increases for both FY 1987 and FY 1988 have greatly increased Customs training costs which include significant expenditures for travel/per diem costs. Many of last year's hires were late in the year and training costs have been obligated this year. In addition, expanded foreign offices require extensive travel funding.

Finally, a small increase from FY 1988 to FY 1989 is for anticipated inflation only, for costs of common carriers, commercial vehicle rentals, etc., not as a program increase.

AUTOMATED MANIFEST SYSTEM (AMS)

Senator DeConcini: The Customs Service is proposing that the Automated Manifest System ("AMS"), part of ACS, disseminate manifest information on a real time basis. They are proposing that tapes of such data base be given given to the press for dissemination every 12 to 13 days with no provisions for updates. It has been argued that this is in violation of 19 U.S.C. 1431 which requires timely dissemination for publications.

It is also alleged that this will result in unequal access since the port authorities will be able to obtain information on all carriers operating in their port area, even where the port authority is not acting as an agent for the carrier. Moreover, there is no restriction on what the port authorities may do with the information. They could pool it with data from other port authorities and establish a data base of import shipments. In your view, is this consistent with the concepts of public access under the Freedom of Information Act and 19 U.S.C. 1431?

Commissioner von Raab: I am not aware of any Customs program involving a release of manifest data to the press every 12 to 13 days with no provisions for updates. However, it is true that tentative plans include the dissemination of manifest data to port authorities. It should be understood that the basic premise for this transmission is that the undertaking by the port authorities involved to purchase and install high technology hardware and software for the use of all carriers will demonstrably assist in the expeditious movement of cargo that will reduce transportation costs and, in doing so, benefit American business and, ultimately, the American consumer.

It is also true that Customs has accepted the statement of responsible port authority officers as to their intended use of the information. This, however, is the only feasible means of addressing the issue. Similarly, Customs permits the press, notably the Journal of Commerce, a general access to manifests which include confidential data. We have representations from responsible officers of the press that this access will not be abused. Certainly there is an inherent danger since any employee of an organization may represent a potential security breach. However, legitimate business should not be denied the wherewithal to do its job in the best manner possible because of a potential problem.

Senator DeConcini: The Customs Service's AMS system is dependent upon a unique identifier which does not currently exist for bills of lading (see Federal Register notice data December 9, 1987, P. 46602, a copy of which is attached hereto). Is this consistent with Congress' intent that ACS be developed in compatible fashion with shipper and carrier activities?

Commissioner von Raab: The necessity for some type of unique bill of lading number is a widely recognized and supported concept. The United Nations/ECE, in Working Group #4 in Brussels, has been attempting to devise such an identifier since 1978.

The growth and competitiveness of the shipper/carrier industry is mandating the move into automation; and computerization requires unique identifiers. The air carrier industry has used unique airway bill numbers since the advent of computerization. Several international sea carriers have been generating unique bills for their own companies for, in some cases, decades. These numbers however, are unique only within a specific company and not unique on an industry wide basis. Seventy-four percent of the respondents to our Federal Register Notice supported the concept of the unique identifier, though there was not consensus on format.

Customs favors a number which would be unique for a period of five years and a format consisting of 12 characters in the following configuration:

1-4	SCAC Code
5-11	Alpha/Numerics, carrier defined
12	Check Digit

This format was presented to Working Group #4 during the week of March 14, 1988, but to date no comments have been received.

In light of the long standing United Nations interest in this area and the responses to our proposal, I believe we are developing in a compatible fashion with the international community.

Senator DeConcini: An examination of the data elements of AMS shows that less information will be required to be collected than is currently required in the paper format. Some of these dropped items like marks and numbers are required by the statute, 19 U.S.C. 1431. Does this mean that ACS needs additional legislative authority before it can be fully implemented?

Commissioner von Raab: Marks and numbers are mandated by statute, 19 U.S.C. 1431, and the AMS automated CF-1302 cargo declaration does not capture this data. Treasury, in the Customs legislative package presented to the second session of the 100th Congress, has requested a legislative change to remove this requirement.

The elimination of marks and numbers from the manifest will not adversely impact Customs enforcement activity or commercial processing. Port authorities and service centers, along with Customs officers, will still have this information available from other readily accessible sources.

When this legislative change is affected, Customs will be in a position to operate solely within AMS for the cargo declaration portion of the manifest.

CONCERNS OF THE TRADE COMMUNITY: MORE STAFF IN OFFICE OF REGULATIONS AND RULINGS

Senator Deconcini: In the Senate Report last year, the Committee expressed a number of other concerns regarding the commercial operations of the Customs Service. A report is due this month from you regarding the four items outlined on page 32 of the report.

One of those concerns was that the attorney-advisor staff in the Office of Regulations and Rulings at Customs Headquarters should be augmented in order to provide prompt, binding Customs rulings to importers, domestic manufacturers, and others, on a timely basis.

What improvement in the Office of Regulations and Rulings can you point to in fiscal years 1988 and 1989?

Commissioner von Raab: Recently, three additional positions were approved for the Office of Regulations and Rulings (OR&R). The three new positions are in the areas of country of origin marking enforcement, entry rulings, and penalties. The allocation of these three attorney-advisor positions to OR&R will reduce the number of pending cases and assist in avoiding processing delays on rulings and other decisions.

In addition to the staff increase, a recent reorganization of the OR&R staff was designed to further increase its efficiency by improving resource utilization through realigning the office structure and redistributing some functions to more appropriate Customs staffs. The OR&R restructuring and other program developments are as follows:

1. As a result of an April 1987 management study, the Office was reorganized by consolidating four divisions into two, thereby reducing the span of control and improving management control of the casework. The responsibility for certain OR&R non-legal functions, e.g., the initial issuance or denial

of broker's licenses and related broker functions; issuance of patent survey notices, and recordation of copyright and trademark registrations; and the maintenance of lists of recorded copyrights and trademarks, will be transferred to the Office of Trade Operations. In addition, the field National Import Specialist (NIS) staff, which also issues binding rulings, was delegated expanded authority to issue rulings on routine questions, e.g., country of origin and certain Schedule 8 requirements. To assist the NIS staff, 16 additional positions were provided to significantly increase their ability to provide binding rulings in a timely manner.

As a result of the redistribution of these functions, there are more resources available to issue binding rulings in a prompt and efficient manner. The reduction in management oversight positions also provided additional resources for conversion into non-supervisory positions. With a streamlined Office structure, there will also be better management control of the existing casework.

2. OR&R is in the process of delegating additional authority in less complex penalty cases to Fines, Penalties, and Forfeitures (FP&F) staffs in the field. With this new delegation, and with the operational aspects of the FP&F program recently moved to a new branch within the Office of Trade Operations, more positions will be available for more complex cases.

3. Customs is developing a LEXIS database of Customs Service rulings, decisions, and other related issuances. The automated LEXIS system will provide on-line access to such rulings to assist attorneys and import specialists in researching and resolving classification issues. With the LEXIS capabilities, research on issues can be done more efficiently, thus reducing the response time to trade community questions. The system is scheduled to be operational in late spring 1988.

SECTION 1595a(c) QUESTIONS

Senator DeConcini: The International Drug Traffic Enforcement Act of 1986 provided to Customs expanded seizure and forfeiture authorities. Some members of the importing community believe this additional authority should only apply to violations related to smuggling of contraband. What is Customs interpretation of this new authority?

Commissioner von Raab: It is Customs postion that by virtue of the express language of the statute, coupled with its legislative history, section 1595a(c), specifically was not intended to apply only to smuggling of contraband. Section 1595a(c) provides:

> "*Any* merchandise that is introduced or attempted to be introduced into the United States contrary to law (other than in violation of section 592) may be seized and forfeited." (Emphasis added)

In House Report Number 794, the Committee on Ways and Means stated with respect to section 123 (1595a(c)) of H.R. 5410:

> "This provision is intended to fill a gap which was caused when former section 593 was moved in 1948 to the criminal code as 18 U.S.C. 545. In addition, although section 592 permits the seizure of prohibited goods, this is in some cases unsatisfactory. While it is true that most laws which restrict or prohibit merchandise provide for forfeiture, some such as the motor vehicle laws and coffee laws merely deem the goods to be a 'prohibited importation' but do not provide for a separate forfeiture."

H.R. REP. NO. 794, 99th Cong., 2d Sess. 16 (1986)

In addition to stating that the statute would not be limited to violations involving smuggling of contraband, Congress also answered the obvious question of whether or not section 1595a(c), would apply in circumstances where a violation of section 1592, also is present:

> "Consistent with the limitation made in section 122 with regard to search and seizure warrants, this provision would not apply to alleged violations of section 592 which already provides for seizure and forfeiture under appropriate circumstances. *It is the Committee's intention, however, that the provision would allow seizure and forfeiture in those cases where merchandise has been imported contrary to laws other than section 592 even if the importation is also a violation of section 592.*" (Emphasis added)

H.R. REP. NO. 794, 99th Cong., 2d Sess. 16 (1986)

Customs relies upon the foregoing legislative history because the version of the amendment of section 1595a, set forth in *section 314* of H.R. 5484, which was enacted into *section 3123* of Pub. Law. 99-570, was *identical to section 123* of H.R. 5410, on which the foregoing House Report was made.

Senator DeConcini: Section 592 of the Tariff Act provides for penalties and seizures and forfeiture under appropriate circumstances. How does Customs determine when to use 592 and when to use 1595a(c), which contains the new seizure and arrest authorities in the International Drug Traffic Enforcement Act?

Commissioner von Raab: The Customs Service has established guidelines for the institution of seizures and penalties in cases in which both section 1595a(c), and section 1592, appear to be applicable. These guidelines originally were set forth in Customs Directive 4400-03 (March 27, 1987), which later were amended and superseded by guidelines set forth in Customs Directive 4400-07, dated January 26, 1988 (copy attached).

Under these guidelines, the following general instructions have been given to Customs field officers:

1. Seizure shall be made under section 1595a(c), and not section 1592, in cases in which merchandise has been introduced or attempted to be introduced into the United States in violation of a law that enforces or imposes a restriction upon such merchandise, even when a violation of section 1592, can be established.

2. Seizure shall not be made under section 1595a(c), but only under section 1592 (assuming all of the conditions thereunder are present), in cases in which the violation solely or primarily affected the applicable duty rate or appraisement of the subject merchandise.

3. A separate penalty shall not be assessed under section 1592, or any other statute, when seizure has been made under section 1595a(c), unless there are aggravating circumstances, since a seizure under section 1595a(c), constitutes an independent claim for forfeiture. Of course, a penalty may be demanded pursuant to established guidelines as a condition for remission of a section 1595a(c) forfeiture.

Senator DeConcini: Was Congress correct in providing to Customs this additional seizure and arrest authority? Was Section 592 not sufficient authority to ensure compliance with laws restricting or prohibiting merchandise?

Commissioner von Raab: Yes, we believe that Congress was correct in providing the additional seizure and forfeiture authority under section 1595a(c), primarily because section 1592 was not sufficient for enforcing compliance with the laws restricting and prohibiting the importation of certain types of merchandise into the United States.

Section 1595a(c) continues to be an effective enforcement tool. The penalty provisions under 1592 were often ineffective and were viewed by the importer as a cost of doing business. Seizures made under 1595a(c) generally result in immediate conformance to the law. For example:

- Over 20 marking violations had been issued to four fur importers. Customs officers had visited these importers premises and explained the marking requirements but the violations continued. Consequently, Customs began seizing the merchandise using the new 1595a(c) authority rather than issuing marking notices. Since that time, these companies' importations have been in compliance with marking regulations.

- An importer of wearing apparel only began correcting visa overweight violations after Customs seized six shipments. The company then sent their own employee overseas to resolve this problem with the manufacturer. Since that time, all the importer's shipments have been in compliance.

Senator DeConcini: There have been allegations that Customs has used this new authority irresponsibly and overzealously. Please comment on that allegation.

Commissioner von Raab: Some may think Customs was initially overzealous in applying the law. However, Customs has conducted an extensive and continuing dialogue with the importing community, including importers, brokers, and their representatives. To curb the effect of overzealousness and to respond to importing community concerns, we implemented new Customs wide procedures. These incorporated such considerations as intentional failure to comply, a consistent pattern of non-compliance and prior violations.

These Customs wide procedures have worked. We are making far fewer seizures and the ones that we make are for more serious violations.

Senator DeConcini: What actions has Customs taken to ensure this new authority in 1595a(c) is being exercised responsibly and effectively?

Commissioner von Raab: Customs Headquarters policy for a responsible and uniform administration of section 1595a(c), initially was set forth in Customs Directive 4400-03, issued on March 27, 1987. These guidelines essentially limited the use of section 1595a(c) to cases involving restricted or prohibited merchandise and, as well, provided additional conditions to be met for seizures of shipments involving textile and steel overages, i.e., shipments which exceeded the weight indicated in the accompanying visa or VRA certificate.

After reviewing the operation of the above guidelines, additional restrictions were imposed under Customs Directive 4400-07 issued on January 26, 1988. In this Directive, a more clear statement was made of the general policy to limit the use of section 1595a(c) to violations involving restricted or prohibited merchandise. In addition, this Directive also provided for the following:

1. The general seizure criteria for textile and steel shipments was increased from a 5 percent overage to a 10 percent overage, bearing in mind that even a one

percent overage constitutes a violation of restrictions imposed under a bilateral textile agreement. In addition, the conditions for remission of the forfeitures of such merchandise were to be considered without regard to other types of violations for which seizure had been made under section 1595a(c).

2. The assessment of penalties in addition to seizure was limited to cases involving aggravating circumstances.

3. Guidelines for remission of forfeitures under section 1595a(c), with dispositions ranging from full remission to denial of the claim, were included as an appendix to this Directive. These guidelines were made available to any member of the public upon request.

4. All seizures made prior to January 26, 1988, the date of the issuance of this Directive were not to be counted against seizures made on or subsequent to this date. Thus, regardless of the number of past seizures that an importer had accumulated, the first seizure made on or after January 26, 1988, would be considered a "first offense" under Customs remission guidelines.

In addition to these general guidelines, Customs Headquarters had issued special guidelines under Customs Directive 4400-04 (May 11, 1987) restricting seizures under section 1595a(c), in cases involving country of origin marking violations, i.e., violations of 19 U.S.C. 1304 and in cases involving false, deceptive or misleading marking 15 U.S.C. 1124. For example, the Customs Service has provided that for first time offenses of failure to properly mark imported merchandise, the merchandise shall not be seized unless there is evidence of intentional or repetitive violations.

Senator DeConcini: Please give examples as appropriate of how 1595a(c) has enabled Customs to obtain conformance to laws restricting and prohibiting merchandise. Why is this new law more effective than section 592 in achieving such conformance?

Commissioner von Raab: With respect to violations relating to the importation of merchandise into the United States, it must be recognized that the possibility of seizure is the biggest deterrent. Therefore, seizure, as an enforcement tool, most effectively enables Customs to obtain conformance to laws restricting and prohibiting merchandise. Due to the increasing volume of imported merchandise subject to various restrictions or prohibitions, Customs enforcement policy must emphasize the type of action that serves to deter future violation.

Section 1595a(c), enables Customs to utilize its strongest enforcement tool more effectively, because [as discussed in response to questions 2 and 3] it provides for an independent claim for forfeiture, which is not tied to the cumbersome process of assessment and collection of a monetary penalty claim, as is section 1592. Customs ability to process seizure cases more expeditiously benefits the importing public, as well as Customs.

The value of the seizure and forfeiture authority under section 1595a(c), was seen as early as last spring when Customs discovered that there was an influx of textile quota shipments covered by counterfeit People's Republic of China (PRC) visas. We must bear in mind that the very existence of the counterfeit visa signified a fraudulent attempt by someone to gain entry of the subject merchandise into the United States in violation of quota restrictions under the bilateral textile agreement between the United States and the PRC. In addition, the PRC had advised Customs that for shipments originally introduced into the United States under a counterfeit PRC visa, no new visas or visa waivers would be issued. Consequently, these shipments no longer were considered merely "restricted", but were "prohibited" from entry into the United States.

The ability to seize these shipments under section 1595a(c), in the counterfeit PRC visa cases had the following advantages over section 1592, in enabling Customs to obtain conformance with the relevant laws:

1. There was no necessity to consider the question of the importer's culpability prior to seizure, since the claim was against the merchandise, as opposed to a personal penalty. The importer/petitioner's conduct was considered after the seizure, in the context of a petition for remission of the forfeiture. These petitions could be processed expeditiously because of the seizure representing an independent claim not associated with a penalty assessment.

2. Customs imposed the requirement of exportation of the merchandise back to the country of origin as a condition for remission of the section 1595a(c) forfeiture to deter future attempted entries of the seized merchandise into the United States under a new counterfeit visa or through transshipment.

3. If the petitioner could not comply with the foregoing terms for release of the merchandise (which would have been the same for a section 1592 seizure), the merchandise could be forfeited under section 1595a(c), without awaiting a judgment on a related penalty claim.

It was the possibility of seizure under section 1595a(c), solely on the basis of the counterfeit nature of the PRC visas accompanying their shipments that prompted many importers to verify with the PRC Embassy the authenticity of their visas, prior to presenting them for clearance of the shipments.

Senator DeConcini: What actions has Customs taken to obtain input from the commercial community regarding this new authority? Have you responded to commercial community concerns?

Commissioner von Raab: The Customs Service Headquarters has held meetings several times over the past year with the American Association of Exporters and Importers and the Northern Border Brokers Association during which the Customs Service policy on the administration of section 1595a(c), was a principal topic on each agenda.

In order to assist the importing community, Customs has issued numerous guidelines, starting from Customs Directive 4400-03 (March 27, 1987), which was superseded by Customs Directive 4400-07, issued on January 26, 1988. In addition, there was the issuance of Customs Directive 4400-04 (May 11, 1987) pertaining to country of origin marking violations, and further clarification of seizure policies under that directive by memorandum dated December 17, 1987.

[The self-imposed limitations imposed under guidelines established in these directives were discussed in connection with question 5.]

REFERENCES: Title 19, United States Code, Section 1592
Title 19, United States Code, Section 1595a
Title 19, Code of Federal Regulations, 171, App. B
Fines, Penalties and Forfeitures Handbook, Chapters FRD and CON

1. PURPOSE

This Directive establishes Revised Guidelines For Institution of Seizures And Penalties Under Section 1595a When Section 1592, Also May Be Applicable and For Remission of Section 1595a(c) Forfeitures.

2. BACKGROUND

As a result of the enactment of the Anti-Drug Abuse Act of 1986, on October 27, 1986, a new subsection (c) was added to title 19, United States Code, section 1595a, which now provides in pertinent part as follows:

> "(a) ...every vessel, vehicle, animal, aircraft, or other thing used in, to aid in, or to facilitate, by obtaining information or in any other way, the importation, bringing in, unlading, landing, removal, concealing, harboring, or subsequent transportation of any article which is being or has been introduced, or attempted to be introduced, into the United States contrary to law, ..., may be seized and

> forfeited together with its tackle, apparel, furniture, harness, or equipment
>
> "(b) Every person who directs, assists financially or otherwise, or is in any way concerned in any unlawful activity mentioned in the preceding subsection shall be liable to a penalty equal to the value of the article or articles introduced or attempted to be introduced."
>
> **"(c) Any merchandise that is introduced or attempted to be introduced into the United States contrary to law (other than in violation of section 592) may be seized and forfeited."**

Title 19, United States Code, section 1592(c)(5), permits seizure of imported merchandise when there is reasonable cause to believe that a violation of that section has been committed and when there is reasonable cause to believe that:

1. The violator is insolvent;

2. The violator is beyond the jurisdiction of the United States;

3. Seizure is essential to protect the revenue; OR

4. **Seizure will prevent the introduction of prohibited or restricted merchandise into the Customs territory of the United States.**

As a result of the decision by the Court of International Trade in United States v. One Red Lamborghini and One Black Lamborghini, C.I.T. No. 85-010-01393, Customs Headquarters has taken the position that summary forfeitures are not permissible for goods seized under section 1592. Thus, even if goods are absolutely prohibited in the condition as imported, forfeiture under section 1592, is not permissible prior to a judgment on the penalty action.

Congress, however, specifically noted the following purpose for the new subsection (c) to section 1595a:

> "This provision is intended to fill a gap which was caused when former section 593 was moved in 1948 to the criminal code as 18 U.S.C. 545. In addition, although section 592 permits the seizure of prohibited goods, this is in some cases unsatisfactory. While it is true that most laws which restrict or prohibit merchandise provide for forfeiture, some such as the motor vehicle laws and coffee laws merely deem the goods to be a 'prohibited importation' but do not provide for a separate forfeiture."

H.R. REP. NO. 794, 99TH Cong., 2d Sess. (1986).

Thus, as a result of the new seizure provision under section 1595a(c), any merchandise introduced or attempted to be introduced into the United States contrary to law may be seized and forfeited without judgment on a penalty claim. On the other hand, the number of situations where merchandise may be subject to seizures and penalties under both section 1595a, and section 1592, have increased.

3. ACTION

To assist in the resolution of cases arising under circumstances where both section 1592 and 1595a appear to be applicable, the following Guidelines have been adopted:

A. Seizure and forfeiture under Section 1595a(c).

Merchandise introduced or attempted to be introduced into the United States contrary to any law, which either imposes or enforces a restriction or prohibition applicable to such merchandise, generally shall be seized and forfeited under section 1595a(c).

Seizure shall not be made under section 1595a(c), when the violation solely or primarily affects the applicable duty rate or the appraised value of the imported merchandise.

When a violation of section 1592, is alleged, seizure under section 1592, shall be made only if the violator is insolvent, absent from the United States, or seizure is necessary to protect the revenue.

Example One: Seizure and forfeiture Under Section 1595a(c)

(1) Acme Company imported a shipment of men's knit shirts from Taiwan under a false description of the fabric content as "polyester" and under a textile quota visa applicable to man-made fiber shirts (638 category). Customs examination revealed that the shirts were made of cotton, which required a cotton quota visa (338 category). Seizure of the of men's knit shirts may be made under section 1595a(c), since they were imported contrary to the restrictions imposed pursuant to the bilateral textile agreement between the United States and Taiwan.

(2) Michael attempted to enter two Mercedes Benz automobiles not covered by EPA certificates of conformity, into the United States by means of the knowingly false statement that the vehicles were intended for personal use of two Austrian citizens. In truth, however, the vehicles were intended for sale by Michael, and thus, not exempted from EPA emission standards. Since the vehicles were imported contrary to EPA laws (40 CFR Part 85), both vehicles may be seized under section 1595a(c).

Example Two: No Seizure Under Section 1595a(c)

Sea-Trader imported crabmeat from Canada having a foreign value of $10,000, (properly dutiable under Item 114.15 (TSUS), at the rate of 7.5% ad valorem) under the false invoice description that the merchandise consisted of lobster meat (duty-free under Item 114.45 (TSUS)). There is no restriction applicable to the importation of crab meat, but the violation resulted in a potential loss of revenue of $750.

[Seizure under section 1592 would be proper only on the basis of insolvency, absence from the jurisdiction or necessity to protect the revenue.]

B. Seizures Under Section 1595a(c) In Cases Involving Textile Or Steel Overages

The entire shipment of textile goods covered by an export quota visa or of steel or steel products covered by a Voluntary Restraint Arrangement (VRA) export certificate, containing a quantity or weight in excess of that amount indicated on the accompanying visa or export certificate, may be seized under section 1595a(c), under the following circumstances:

(1) The overage (i.e., excess weight or quantity) is ten (10) percent or more; OR

(2) The overage is between five (5) and ten (10) percent, and the current shipment has been introduced by an importer who has two or more prior violations involving textile or steel overages (whichever is applicable under the circumstances) from the same foreign supplier within the last one-year period;

OR

(3) The overage is between zero (0) and five (5) percent, and the current shipment has been introduced by an importer who has three or more prior violations involving textile or steel overages (whichever is applicable under the circumstances) from the same foreign supplier within the last one-year period;

OR

(4) An overage of any percentage, where there is evidence that such violation was intentionally committed by the importer. **IN THESE CASES, WHEN THE OVERAGE IS BETWEEN ZERO (0) AND TEN (10) PERCENT, SEIZURE REQUIRES THE PRIOR APPROVAL OF THE CHIEF, PENALTIES BRANCH.**

[All prior instructions pertaining to seizures in textile or steel overages cases are hereby superseded and amended accordingly.]

C. Penalties

When a seizure has been made under section 1595a(c), a penalty shall not be assessed under either section 1595a(b), section 1592, or any other applicable penalty provision, unless there are aggravating circumstances relating to the violation.

In cases where a section 1595a(c) seizure could have been made under the policy of this Directive, but the Area/District Director has exercised discretion not to seize, a penalty may be assessed under either section 1595a(b), or section 1592.

Penalties shall not be assessed under section 1595a(b), however, in cases where the merchandise would not have been seized, even if available for seizure, under the policy set forth in this Directive.

D. **Guidelines**

Revised guidelines for remission of section 1595a(c) forfeitures are attached hereto as **Appendix A.**

The guidelines for remission of section 1595a(c) forfeitures also shall be used in considering petitions for mitigation of section 1595a(b) penalties.

4. EFFECT OF THIS ISSUANCE

This Directive abolishes and supersedes Customs Directive 4400-03, issued on March 27, 1987, and amends "Guidelines For Remission of Section 1595a(c) Forfeitures", issued on June 4, 1987 (ENF 4-02.2 CO:R:E:C 653977 SLG).

Section 1595a(c) seizures made prior to the date of this Directive shall not be counted against seizures made on or after the date of this issuance. Shipments involving textile and steel overages introduced prior to the date of this Directive also shall not be counted against textile and steel shipments introduced on or after the date of this issuance.

If an initial decision has not been made prior to the date of this Directive, petitions for remission of forfeitures of merchandise seized under section 1595a(c), shall be processed under the remission guidelines in this issuance.

5. RESPONSIBILITIES

Area and District Directors will be responsible for ensuring that the provisions of this Directive are implemented uniformly within their local jurisdictions.

Guidance concerning the application of this Directive may be requested from the Chief, Penalties Branch, Headquarters (FTS 566-8317) or the appropriate Regional Counsel.

The statements made herein are not intended to create or confer any rights, privileges or benefits for any private person, but are intended merely for internal guidance.

William von Raab

Commissioner of Customs

Attachment

Distribution
- H-02 Assistant Commissioners
- H-03 Chief Counsel
- R-01 Regional Commissioners
- R-02 Regional Counsels
- R-03 Assistant Regional Commissioners (ENF)
- R-04 Assistant Regional Commissioners (OPS)
- F-01 District/Area Directors
- F-10 District FP&F Officers
- G-01 All Special Agents in Charge (ENF)

APPENDIX A

REVISED GUIDELINES FOR REMISSION OF SECTION 1595a(c) FORFEITURES

A. SCOPE

1. These guidelines are applicable only upon the filing of a petition pursuant to section 1618, for remission of the forfeiture.

2. In addition to normal conditions for remissions of forfeitures such as, payment of storage charges and execution of a hold harmless agreement and release, remissions under these guidelines also shall be conditioned upon (a) the removal or correction of any restriction pertaining to the seized merchandise, or (b) exportation of the merchandise under Customs supervision if such restriction either is not or cannot be corrected.

3. The dispositions set forth in these guidelines may be applied in determining the criteria for early release of merchandise seized under section 1595a(c). The Area/District Director may authorize early release for less than the domestic value of the merchandise, where such does not exceed $100,000. If the domestic value of the seized merchandise exceeds $100,000, such a request for early release must be approved by the Chief, Penalties Branch.

4. Extraordinary factors not specified in these guidelines may justify deviation from the specific dispositions set forth in these guidelines.

B. DISPOSITIONS

1. **First Offense, Mitigating, but no Aggravating Factors,** Remission upon payment of:

   10--30% of the dutiable value of the seized goods.

2. **First Offense, but Aggravating Factor(s), Or Second Offense, no aggravating factors,** Remission upon payment of:

   30--50% of the dutiable value of the seized goods.

3. **Second offense, plus Aggravating Factor(s), or Third or Subsequent Offense,** Remission upon payment of:

   50--80% of the dutiable value of the seized goods.

4. **Textile and Steel Overages cases,** Remission upon payment of:

   10--80% of the dutiable value of the seized goods, pursuant to the "Special Dispositions" table in Attachment A.

5. **Criminal Conviction of owner of seized goods in connection with transaction leading to seizure,** NO REMISSION, Seek forfeiture of seized goods.

6. **Mistake of Fact or Clerical Error:** Forfeitures under section 1595a(c), **shall be remitted in full,** when it is established that the violation of law, resulted

solely from either a clerical error or mistake of fact, as defined under 19 CFR 162.71(c)(d).

7. **Other Extenuating Circumstances:** Forfeitures under section 1595a(c), **may be remitted in full,** when the deciding official (D.D. or Headquarters) determines that such action is justified by the equities relating to the seizure.

   For example, if there is evidence that the owner of the goods under seizure did not participate in any way in the violation and exercised reasonable care to ensure compliance with Customs laws or if the only participation by the owner was the filing of the entry documentation and there is evidence that he attempted to confirm the veracity of the material information prior to filing documents with Customs, the seizure may be remitted in full. [In any such case, however, a personal penalty (e.g. under 19 U.S.C. 1592 or 1595a(b)) may be assessed against the culpable party(ies).]

C. DEFINITIONS

1. **Second, Third or Subsequent Offenses:**

   The shipment currently under seizure will be considered a "second, third or subsequent offense", whichever is applicable, if it has been **imported by or on behalf of a person** whose goods have been seized under section 1595a(c), **within a one-year period,** and **forfeiture** thereunder was **not remitted in full.**

2. **Mitigating Factors:**

   The following factors may be considered for remission of forfeitures in accordance with the dispositions under these guidelines, when established by the Petitioner.

   (a) Prior Good Record of the Violator.

   (b) Inexperience in Importing.

   (c) Cooperation with Customs officers in ascertaining facts establishing the violation.

3. **Aggravating Factors:**

   When established by the record, the following factors may be considered as off-setting any applicable mitigating factors or as justifying denial of relief under these guidelines.

   (a) Criminal Violation relating to the subject transaction.

   (b) Repetitive Violations of the same import restriction involved in the seizure (including cases in which no seizure was made under section 1595a(c)).

   (c) Evidence that the Importation Contrary to Law was intentional.

Attachment A

SPECIAL DISPOSITIONS FOR TEXTILE AND STEEL OVERAGE CASES

% Excess Weight to Visa/Export Certificate Weight - Current Shipment	First Offense	Second, Third and Subsequent Offenses	
		2 - 5 Overweight Seizures Within Past one-year	Over 5 Overweight Seizures Within Past one-year
0 - 15 % overage	10 - 20 % dutiable value	15 - 30 % dutiable value	25 - 50 % dutiable value
15 - 25 % overage	15 - 30 % dutiable value	25 - 45 % dutiable value	40 - 65 % dutiable value
25 % and up overage	25 - 45 % dutiable value	40 - 65 % dutiable value	60 - 80 % dutiable value

ENFORCEMENT MISSIONS OF MOBILE LABORATORIES

Senator Deconcini: Tell us what specific commercial and law enforcement missions mobile laboratories will conduct along the southwest border?

Commissioner von Raab: Mobile laboratories have become an integral part of Customs commercial enforcement efforts in several key areas. The U.S. Customs Service began conducting mobile laboratory operations at ports of entry in 1983. These operations were initially focused on the detection of alloying elements in steel utilizing a portable metals analyzer. In 1986 textile analysis was added to the mobile laboratories capabilities, and in 1987 the mobile technical units began analyzing electronic importations to discover copyright/patent infringements. Customs three existing mobile laboratories are equipped to provide Customs with the capability to analyze and weigh steel and textiles dockside for quota/visa enforcement and Voluntary Restraint Agreement compliance in addition to providing limited analytical capabilities to analyze other commodities dockside.

In April Customs will take delivery of three refurbished seized motor homes specially equipped to be used as mobile laboratories and a refurbished "18 wheeler" tractor trailer specially equipped to be used as a near full service mobile laboratory. The refurbished motor homes will be utilized much the same as our existing mobile laboratories, i.e. to perform dockside technical examinations on a limited numbers of commodities such as textiles, steel products, and electronics. Additionally, the new mobile laboratories will be more flexible allowing us to convert them to perform special operations such as drug analysis (finished drugs and precursors) etc. These mobile operations will expedite the movement of merchandise into this country while at the same time provide verification that the merchandise is as claimed by the importer.

The "18 wheeler" unit is a near full service laboratory on wheels. It will be moved about on an as needed basis to support Customs special Tactical Enforcement Operations. The Commercial Enforcement Operations utilizing the "18 wheeler" mobile laboratory will focus on fraud detection such as transshipment of commodities subject to quota. Additionally, the "18 wheeler" mobile laboratory will house the necessary analytical equipment to provide on the spot analysis of drugs and other contraband and will be used to provide on-site analysis of physical evidence collected in support of criminal investigations such as the analysis of aviation fuels of Mexican origin extracted from planes used to smuggle contraband into the U.S.

BAHAMAS PRECLEARANCE FACILITY

Senator DeConcini: In light of the substantial increase in the number of arrests at the Customs preclearance facility at the Nassau International Airport, what plans do you have to beef up your drug enforcement operations there?

Commissioner von Raab: Current plans to enhance enforcement activities in the Bahamas include the installation of TECS II equipment which will provide us with a larger enforcement data base. Additionally, we have increased the private aircraft reporting requirements, and our increased ability to monitor these private aircraft movements through TECS II gives us a decided enforcement edge.

Presently, 25 airlines who service the Bahamas area have agreed to sign carrier iniative agreements.

On August 3, 1988, training of Bahamian Customs officials will begin. This will be a 2-week intensive course designed to provide training and practical exercises in narcotics interdiction, passenger and cargo processing and search of both commercial and general aviation.

Training will be provided by U.S. Customs officials designated by the International Affairs Division.

The Customs Service is constrained from adding additional personnel because we must conform to Department of State staffing levels. The staffing levels for 1986, 1987, and 1988 are as follows:

	1986	1987	1988
Freeport	18	19	21
Nassau	12	11	13

Seizure Statistics (1986)

Seizures	Type	Quantity
70	Cocaine	116 pounds
27	Marijuana	56 pounds
21	Currency	$572,196
74	Merchandise	$331,377

Arrests 123

Seizure Statistics (1987)

Seizures	Type	Quantity
73	Cocaine	111 pounds
52	Marijuana	89 pounds
85	Currency	$1,630,004
69	Merchandise	$307,378

Arrests 258

There was a 58.6 percent increase in enforcment actions between 1986 and 1987.

SUSPENSION OF CES AT JFK AIRPORT

Senator DeConcini: Can you tell us what the effect on the trade community has been as a result of the CES shutdown at JFK: what the Reconciliation bill restrictions will do to Customs ability to process cargo; and what recommendations you have for improving CES in fiscal 1989?

Commissioner von Raab: The suspension of the Centralized Examination Station (CES) which operated at JFK Airport has affected Customs ability to operate effectively and efficiently, and negatively impacted our ability to provide service to the trade community. As a result of the suspension, Customs has been forced to reallocate our staff, increase the use of our vehicles, and adjust the number of hours and the hours of service which we provide to the trade at JFK.

While the CES at JFK was operational inspectors were assigned to the various air carriers facilities to process and examine cargo and inspectors were also assigned to the CES at JFK airport. The CES at JFK airport was established to examine all Container Freight Station (CFS) cargo which arrived by air.

Unfortunately, once the CES at JFK ceased operation, Customs could not return to a policy whereby we would staff all of the air carriers facilities and visit, on an as-needed basis, all the CFS locations without giving disparate treatment to some importers. Therefore, in order to assure uniform treatment for all importers, effective January 1988, Customs at JFK now visits CFS's to examine cargo on an "as needed" basis, and visits air carriers facilities during specific scheduled times. At the present time, no cargo facility at JFK airport is staffed full time.

Because we no longer staff facilities full time, or have a CES, the suspension has affected our ability to examine cargo expeditiously, and affected the carriers ability to deliver cargo quickly. This in turn, may affect the consignees ability to receive their cargo in a timely fashion.

The suspension of the CES at JFK has also affected our ability to utilize our staff efficiently. Inspectors are now required to visit CFS's to examine cargo - as a result inspectors now incur a large amount of nonproductive travel time driving from CFS to CFS to examine cargo. In addition, because inspectors now travel to CFS's in order to examine cargo, Customs was also required to substantially increase the number of vehicles we use to examine cargo at JFK. The increased use of vehicles has resulted in greater costs for our agency.

The U.S. Customs Service does not intend to resume the operations of CES's at airports, or establish new CES's at airports until we have had ample opportunity to review the analysis that the GAO is preparing and to study the report's recommendations.

The U.S. Customs Service's current policy is to continue to work within the guidelines set forth by Congress to establish CES's at those locations where there are geographically separated facilities, or where existing facilities are not adequate to perform examinations.

We will also continue our policy of working closely with the trade to insure that CES's are established only at locations that are advantageous to both Customs and the trade.

NEW TECHNOLOGY

Senator DeConcini: What is the latest in new technology for detecting drugs on passengers and cargo at seaports, airports, and land border ports of entry?

Commissioner von Raab: We are in the early stages of developing a chemiluminescence narcotics detector which is significantly distinct from previous efforts that focused on vapor detection. Rather than seeking the solvents and chemicals used in the processing of heroin and cocaine, the chemiluminescence device is designed to detect the presence of narcotic drugs by their specific chemical structure. The major drawback of the device is the speed of operation. The prototype manufacturer is confident that the speed of operation can be accelerated in the production model tailored to Customs requirements.

We are also continuing to explore the use of "Nuclear Magnetic Resonance". This technology was previously tested on passenger baggage but, unlike the chemiluminescence narcotics detector, it gave a high false alert rate caused by ordinary substances present in passenger baggage which the system confused with cocaine. We now want to test it on flowers, a homogeneous cargo.

There are very few chemical substances in a flower box. We feel that tuning the machine to examine flowers, cardboard, wood, paper, ice, and water, we will be able to detect the presence of cocaine in excess of 8 ounces or more without false alerts.

We are now in the production stage of the Portable Contraband Detector (PCD, Buster, Atomic Dog). We are ordering 60 for a total cost of $300,000. The device measures the density level of an area that is inaccessible for inspection, e.g., vehicle mounted and unmounted tires. It is versatile and can help reduce tort claims for the unnecessary disassembly of a vehicle or vehicle parts. Inspectors use valuable time in dismounting tires. With this device, the tire cavity can be inspected in less than 20 seconds.

Customs has procured 110 fiberscopes for field distribution. This fiberoptic device allows the inspector to view inside gas tanks and other inaccessible areas for inspection by placing the attached wire inside the hard-to-get-at area. The wire includes a light to illuminate dark areas. The inspector can readily see if there are any hidden compartments or bundles of narcotics being hidden. Disassembly is avoided.

INTERDICTION STAFFING

Senator DeConcini: What steps have you taken to make sure that you have put the proper emphasis on beefing up traditional interdiction slots at Customs? Tell us briefly now and show us in tabular and/or narrative form for the record.

Commissioner von Raab: In Fiscal Years 1986 and 1987 we authorized an increase of 301 positions in the Marine Interdiction Program along the southern border. In Fiscal Years 1986, 1987 and 1988 we have increased the staffing of the Aviation Interdiction Program by 437 positions. During the same period we increased our Intelligence Program staffing by 84 positions, the preponderance of this increase designed to provide support to the Aviation and Marine Interdiction Programs.

The fact that the positions being filled in the Interdiction Program are in the GS-1811 series does not make them Agent positions. The GS-1811 series covers all criminal investigative activities. Tactical Interdiction activities rely heavily on the use of investigative tactics, tools and techniques. Therefore, the positions in the Tactical Interdiction Program are in the GS-1811 series. During the same period of time (Fiscal Years 1986, 1987 and 1988), we have increased the Agent work force on the southern border by 388 positions. These positions are devoted to the full range of investigative responsibilities which include but are not limited to pre- and post-interdiction investigations and into the alleged illegal movement of currency and monetary instruments that are the products of drug smuggling activities.

We believe that we have established and maintained the proper balance of interdiction and investigative resources needed to deal with the drug smuggling problem.

COLOMBIA

Senator DeConcini: On December 30, 1987, officials of the Colombian Government released Jorge Luis Ochoa Vasquez, one of the kingpins of the narcotics trafficking organization called the Medellin Cartel, indicating that the Colombian Government can no longer effectively control narcotics traffickers. What is Customs Service doing to specifically attack the problem of narcotics being smuggled on aircraft, vessels, or within commercial cargo arriving from Colombia? What successes can you point to?

Commissioner von Raab: On December 31, 1987, the United States Customs Service instituted measures to intensively inspect all persons, carriers, and cargo arriving in the United States from Colombia. All persons and products emanating from Colombia must be considered high-risk for narcotics purposes and must be subject to a higher level of scrutiny by Customs officials at U.S. ports of entry.

The types of actions initiated by the Customs Service include:

- 100 percent inspection of all persons arriving directly or indirectly, by aircraft or vessel from Colombia.
- Intensive inspections of commercial goods arriving in the United States, with concentration on the flower shipments and containerized cargo.
- Full search of aircraft and vessels arriving from Colombia.
- Scrutiny of exportations to Colombia to seize currency resulting from the proceeds of drug sales.

The results to date have proven to be successful. They include:

- 25 seizures of cocaine for 1,128 pounds.
- 2 seizures of marijuana for 20,040 pounds.
- 18 seizures of currency for $1,401,859.
- 41 arrests for narcotics or currency violations.
- 747 commercial cargo airline seized.

CURRENCY INVESTIGATIONS/INTERFACE WITH BAHAMAS

Senator DeConcini: What specific steps will you take or have you taken to plug your clearinghouse system into the Bahamas and what are your plans for taking advantage of the MLAT Treaty provisions on money laundering and bank information?

Commissioner von Raab: Since the negotiation of the MLAT signed by the United States and the Bahamas, the Customs Service has established a full-time Special Agent position in Nassau. His duties include coordinating Customs money laundering investigations which involve the Bahamas, and he will be in a position to take full advantage of the money laundering provisions of the MLAT.

As you may already know, Customs maintains the database of financial information which is gathered pursuant to the Bank Secrecy Act. Information from that system is available to Bahamian law enforcement authorities through proper request procedures. The Customs agent assigned in Nassau will facilitate the exchange of our financial information with the Bahamians.

The Customs Service is currently providing training instructors to an Interpol sponsored training class on financial and diversion investigative techniques, which will be given to Caribbean countries in April and May of 1988. It is our understanding that Bahamian law enforcement officials will be attending that training course.

In addition, the Customs Service is preparing an international training course of financial investigative techniques. This course includes a review of the procedures for exchanging financial information. Bahamian law enforcement authorities will be given an opportunity to receive this training.

DIVERSION OF COMPUTERS TO SOVIETS

Senator DeConcini: The Washington Post reported on Tuesday, February 23rd, that the Administration was investigating allegations that a U.S. computer system that could help determine targets for nuclear missiles had been illegally shipped to the Soviet Union. Apparently, a Los Angeles firm is being investigated for an alleged shipment last December of a computer capable of simulating nuclear explosions to an engineering college in Yugoslavia. Customs, Commerce, and State are apparently investigating.

> Q: Tell us about this particular investigation and how OPERATION EXODUS -- your program for intercepting high technology going to communist countries -- is affecting the illegal shipment of sensitive technology to the Soviets and others?

Q: How much money will be spent on this effort in fiscal 1989 and how does that compare to FY 1988?

Commissioner von Raab: The matter referred to in the Washington Post involves an active, open investigation by the Customs Service; as such, we simply cannot comment on it at this time without jeopardizing the outcome.

On a broader issue, I can state that Operation EXODUS has had a marked impact on preventing the illegal export of controlled and sensitive high technology from the U.S. to the Soviet Union and her allies. Working in close cooperation with other government agencies -- State, Commerce, Defense, Justice, and the intelligence community -- Customs has maintained a high profile in this critical law enforcement area throughout FY 87 and will continue to do so in the future. Since EXODUS was launched by Customs in early FY 82, we have made over 6,000 seizures of merchandise valued in excess of $430 million, and have made over 900 arrests. Customs has adopted a proactive investigative strategy -- involving the use of sophisticated undercover operations -- designed to prevent the illegal export of sensitive technologies before our national security can be harmed.

EXODUS funding in FY 1989 is expected to be approximately $18.7 million, compared to $18.5 million in FY 1988.

SPECIAL AIR OPERATIONS IN THE BAHAMAS

Senator DeConcini: What efforts has Customs undertaken concerning joint aviation narcotics interdiction operations with the government of the Bahamas and other U.S. agencies? What has been the level of cooperation from the government of the Bahamas?

Commissioner von Raab: We plan to continue joint operations with the DEA and the Bahamian Strike Force operating out of Homestead AFB, Florida.

Presently, we are conducting continuing operations out of Guantanamo 7 days a week, 16 hours per day in conjunction with the Coast Guard and the Bahamas Task Force. We are rotating our crews on a TDY basis from Miami and Jacksonville.

The Customs Service has placed interceptor vessels at Gun Cay in support of the Bahamian effort.

This effort has been very successful in that it has created a deterrence, disruption and forced a displacement of the smugglers to bases of operations from Bimini to points farther south.

NOMADS

Senator DeConcini: What are your plans for deployment of the NOMADS and what about using them in the Bahamas for marine interdiction surveillance?

Commissioner von Raab: NOMADS are slated to be deployed to Miami, Tampa, New York, New Orleans and San Diego. Miami and New Orleans will have two NOMADS each and the other sites listed will have one each. Its simplicity, STOL performance characteristics and sensor package would make the NOMAD an excellent marine detection asset to be utilized in the Bahamas in support of the U.S./Bahamas Drug Interdiction Task Force.

Senator DeConcini: Are you satisfied that the aircraft you will be receiving will meet the Customs marine surveillance mission?

Commissioner von Raab: At this point, none of these aircraft have been received. Contract requirements call for an aircraft that will meet Customs specifications. If this aircraft performs as required, it would prove a capable asset for its Customs mission.

C-12 MODIFICATIONS

Senator DeConcini: In fiscal year 1988, the Committee provided $12.7 million for continuation of the program of retrofitting your existing C-12 and civilian King Air aircraft with F-16 radars and FLIRS. Now, I understand that you would rather use those funds to purchase outright, additional Citations with F-16 radar and FLIRS -- aircraft that you already have in the fleet. I am told that this will save you perhaps 2 years of time and not cost much more money than going ahead with the C-12/King Air retrofit program. Is that correct, and when can we expect your letter requesting such a shift in funding priorities?

Commissioner von Raab: My letter to you, dated March 4, 1988, requested the reallocation of funds to modify the C-12s (copy attached).

If you desire a personal briefing on the background information which led to this letter request, the Office of Aviation Operations is prepared to conduct such a briefing at your convenience.

March 4, 1988

Dear Senator DeConcini:

For the past several years, the Customs Service has been involved in a modification plan for the C-12 aircraft. Our original intent was to modify these aircraft to perform the marine target detection mission;

however, the plan was revised when the NOMAD aircraft were made available through the military exchange program.

With the future availability of the NOMAD aircraft to perform the marine function, we subsequently analyzed several alternative approaches to modify the C-12 as a tracker aircraft to support the Citation II interceptor during the interdiction mission. As we progressed with a Request for Proposal to modify the C-12, we became aware of several problems that make this approach less and less attractive. These problems include:

- standardization
- wing fatigue life
- airworthiness certification
- Army engineering review analysis
- extended delivery schedule

Of the aforementioned items, the extended delivery schedule creates our biggest problem. Through on-going major efforts, the Customs Service will have significant detection resources (such as the C3I, P3-AEW aircraft and tethered Aerostats) operational in the very near future. Based on optimistic estimates, the earliest we could have a modified C-12 in the field would be 18 months with delivery of the final C-12 in approximately 36 months. In order to support the above detection devices, our most pressing need, therefore, is for accelerated delivery of interceptor/tracker aircraft.

To solve this problem, we have evaluated several options and find that a modified Cessna Citation II is the optimum solution. The sensor equipped Citation II has proven to be a very reliable and effective platform to conduct the interdiction mission. This aircraft will perform the interceptor and the tracker function. The first aircraft can be delivered to the Customs Service, fully modified, in 12 months or less. This effort will provide Customs with standardized aircraft in a more timely manner with no technical risks.

We propose to continue utilizing the C-12/BE-200 as daytime VFR interceptors and support aircraft.

With your approval, we will cancel efforts to modify the C-12/BE-200 and reprogram that funding to modify Citation II aircraft.

Yours faithfully,

William

PUERTO RICO

Senator DeConcini: Has your Aviation Unit in Puerto Rico been tailored to operate in conjunction with the planned aerostat in Puerto Rico and what can you tell us about the results of the Treasury threat assessment of Puerto Rico that was mandated in the Supplemental for FY 1987?

Commissioner von Raab: The Customs Service established its Puerto Rico Aviation Unit on November 1, 1985, long before Congress appropriated funds for an aerostat. Therefore, in all honesty, we could not possibly state that the unit was tailored to operate in conjunction with the aerostat. However, the Aviation Program prides itself on its ability to change its operations to meet new threats or to effectively utilize newly developed tools for use in the war against airborne drug smugglers. In view of our mobility, I can assure this committee that the U.S. Customs Puerto Rico Aviation Unit will be prepared to work in conjunction with that aerostat when it becomes operational.

With regard to the second part of the question, in accordance with the Senate request in the FY 87 Supplemental Appropriations Bill, a narcotics threat assessment was prepared by the U.S. Customs Service for the area in and around Puerto Rico.

Controlled substances of all types are smuggled into Puerto Rico for local consumption. However, cocaine and marijuana are the drugs smuggled in the largest quantities and pose the greatest threat from an enforcement viewpoint. The bulk of the cocaine and marijuana transit Puerto Rico enroute to other Caribbean Islands, the United States, or Europe. However, Customs officials in Puerto Rico believe that substantial amounts of the drugs may be consumed on the Island. It should be noted that once drugs are smuggled into Puerto Rico, they have entered the U.S. Commerce and their onward movement to other United States locations is generally not subject to Customs reexamination or reinspection. We do not know how often drug traffickers use Puerto Rico in this manner, but our drug seizures indicate that such methods of operation are becoming more common. In recent years, cocaine is increasingly replacing marijuana as the drug transiting Puerto Rico.

Cocaine seized by Customs enforcement elements in Puerto Rico has roughly tripled in each of the past 3 years (1984 = 136.5 pounds, 1985 = 373.8 pounds, and 1986 = 2,088.9 pounds). Seizures to June 1987, total 3,947.7 pounds. This increase in cocaine seizures is attributed to increased production in South America which has resulted in increased availability for the large consuming American market. It also points to a growing cocaine threat on the Island and the willingness of traffickers to use Puerto Rico as a transit point. Over the past year, the greatest number of cocaine seizures has occurred from commercial vessels and commercial aircraft. The sources of the cocaine have been Colombia, Peru, Bolivia, Venezuela, and Ecuador. The Dominican Republic, Haiti and the U.S. Virgin Islands are used as transit locations for cocaine destined for Puerto Rico.

An example of one method used to smuggle cocaine via Puerto Rico was reported by the Customs Southeast Regional Intelligence Branch on August 4, 1987. "Narcotics smuggling organizations have established a system in which aircraft leave legitimate airports after having arranged with officials for up to an hour's delay in filing flight plans to the United States. This allows time for the aircraft to fly to clandestine airstrips, located primarily in northeastern Puerto Rico, onload cocaine, and then fly domestically to the United States." Destinations are in interior states such as Tennessee and Kentucky.

Marijuana seizures have dropped from a high of 566,000 pounds in 1982. These seizures figures, reported by Customs elements over the past 3 years, include vessels interdicted on the high seas by the U.S. Coast Guard and turned over to Customs (1984 = 314,160 pounds, 1985 = 191,775.5 pounds and 1986 = 286,609.3 pounds). Through mid-1987, only 1,012.2 pounds of marijuana have been seized in Puerto Rico.

These shipments are smuggled to the Islands by aircraft and vessels. Profiles which characterize each method of conveyance are outlined below:

Private Vessels

- Private vessels carry the bulk of marijuana that is smuggled into or transits Puerto Rico.
- The sources of most marijuana smuggled into Puerto Rico via private vessels are Colombia and Jamaica.
- Seizures of marijuana from private vessels range in size from 100 to 36,000 pounds.

Commercial Aircraft

- The source of most marijuana that is smuggled into or transits Puerto Rico via commercial aircraft is Jamaica.
- Seizures of marijuana from commercial aircraft range in size from user amounts to 200 pounds.
- Airline flights transiting Puerto Rico are suspected of carrying cocaine destined for Europe.

General Aviation (Private) Aircraft

- Most marijuana smuggled into Puerto Rico via private aircraft is from Colombia and is destined for local Island consumption.
- Seizures of marijuana from private aircraft range in size from about 60 to 2,000 pounds.
- Airdrops of marijuana to small boats in the Puerto Rico area appear to be increasing, as reflected by the increasing number of floating marijuana bales recovered near the Island.

E-2C

Senator DeConcini: Tell us what is happening with the E-2Cs; what has been the problem with the wings; and what, if anything is the Navy doing to make these aircraft operational?

Commissioner von Raab: One Customs E-2C is grounded at Grumman Bethpage. This aircraft was grounded on November 4, 1987, due to exceeding wing fatigue life hours. Further inspection revealed that extensive repairs are needed. The Navy has authorized installation of another set of wings to reduce down-time. Wings are scheduled for delivery in April. Hopefully, this aircraft will be flyable by April 15, 1988.

The other Customs E-2C was grounded for wing cracks from October 5, 1987, until January 12, 1988. Cause of the extended down-time was due to lack of repair kits.

In the future, both aircraft will be grounded for wing center section replacement, one in 200 flight hours and one in 400 flight hours. Wing center section replacement will take approximately 6 months per aircraft to complete. The Navy has promised replacement aircraft for use during this repair cycle.

We feel that, due to the mission of the Customs E-2Cs, the Navy should give Customs the highest priority on repair kits and replacement aircraft.

Senator DeConcini: There has been discussion of turning over the E-2Cs to Coast Guard once Customs has its full complement of P-3/360 degree radar aircraft in place. Do you have plans in fiscal year 1988 or 1989 to turn over any of your E-2Cs to Coast Guard, since you will have at least the first P-3/360 degree aircraft in hand?

Commissioner von Raab: Language from P.L. 100-202, continuing resolution for FY 1988, provides that no aircraft or related equipment shall be transferred on a permanent basis to any office outside the Department of the Treasury. Customs has made no plans to turnover any E-2 aircraft in either FY88 or 89.

FLORIDA C-3I CENTER

Senator DeConcini: What is the status of the Florida C3I Center and what effect will it have on improving drug interdiction operations in the Bahamas? Be specific.

Commissioner von Raab: The C3I Center East, located at Richmond Heights, Florida, is currently under construction. Beneficial occupancy at the site (when the operations floor of the building is available for system installation) is expected to occur on May 15, 1988.

The radar capability, (aerostat, JSS and FAA radar) with JSS/FAA radar along with increased communications and tactical intelligence capability at C3I East will greatly enhance the air and marine drug interdiction efforts in the Bahamas. The C3I system will give the Federal Government greater capability to command and control assets in that area and throughout the southeast United States.

U.S. BAHAMAS DRUG TASK FORCE/HELICOPTER MONEY

Senator DeConcini: Customs is still holding about $3 to $4 million that was appropriated in the fiscal 1987 Continuing Resolution for helicopter support as part of the newly created U.S.-Bahamas Drug Interdiction Task Force. Coast Guard wants this money to retrofit some old Air Force H-3 helicopters that have been promised to them for use by Coast Guard in the Bahamas. A total of $9 million was originally appropriated to Customs for purchase of helicopters for the Task Force, but it was found to be cheaper and faster to retrofit existing helicopters. We discussed this matter briefly at the Bahamas hearing. Could you bring the Subcommittee up to date on what your plans are for that remaining helicopter money that was provided in fiscal 1987?

Commissioner von Raab: Currently a balance of $3.88 million for Bahamian Task Force (helicopter) funding is being held by Customs. Coast Guard has agreed to provide $2.45 million of the $3.88 million allocated to them for support of CARIBALL I operations. The remaining sum of $1.43 million will be transferred to Coast Guard.

Pending Congressional approval, Customs proposes to reallocate the remaining balance in Bahama Task Force funds to support CARIBALL I operations.

SPECIAL MARINE OPERATIONS

Senator Deconcini: What special marine operations has U.S. Customs initiated in conjunction with the government of the Bahamas, to address the smuggling of narcotics by small vessels? What have been the results and what has been the level of cooperation of the Bahamas?

Commissioner von Raab: The United States Customs Service has made a commitment of manpower and resources to the U.S Bahamas Drug Interdiction Task Force with the establishment of a joint Bahamian-U.S. Customs marine base at Gun Cay, Bahamas. This base is equipped with Customs "Blue Thunder" interceptor boats. The boats have crews of U.S. Customs officers and Royal Bahamian Defence Force officers (RBDF). Since its establishment on April 13, 1987, the Gun Cay base has been responsible for the seizure of 4,725 pounds of marijuana, 3,006 pounds of cocaine, eight vessels seized, and 22 drug violators arrested. The Gun Cay base has eliminated the islands in the Bimini chain, the islands closest to the United States, as a staging area for drug smugglers. The go-fast boats which once crowded the harbors of the Bimini chain waiting to make their late night smuggling runs into the U.S. are gone. The corruption influence of the drug smugglers and their narco-dollar are also gone. The displacement of these maritime smugglers from the Bimini chain forces them to travel further and longer over water, making them more vulnerable to detection by law enforcement. To counter the threat of drug smuggling from other areas of the Bahamas the U.S. Customs Service has proposed that other members of the Task Force establish mobile bases. These mobile bases would utilize large platform vessels as a base with interceptor vessels to respond to potential targets identified by the platforms. These steps in conjunction with the continuing excellent cooperation between U.S. law enforcement agencies and the government of the Bahamas will insure that the U.S. Bahamas Drug Interdiction Task Force has continued success in its efforts to make drug smuggling from the Bahamas so difficult that persons involved in that activity will be forced to find other methods.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

SMALL AIRPORTS

Senator Domenici: You propose to increase the number small airports being serviced by Customs on a reimbursable basis in fiscal year 1989 and request 14 additional average positions for this purpose.

Senator Domenici: Which airports are now designated to receive service on a user fee basis?

Commissioner von Raab: Lebanon, N.H., Wilmington, Oh., Fort Myers, Fla., Allentown, Bethlehem, Easton (ABE), PA., Midland, Tx., Casper, Wy., Columbus, Oh., Fargo, N.D., Fort Wayne, In., and Dona Ana County, N.M. Activation of Morristown, N.J. and Sioux City, Ia., will be accomplished during FY 1988.

Senator Domenici: Which eight airports will receive additional Customs service in fiscal year 1989?

Commissioner von Raab: We are unsure which airports will actually submit applications. Requests for service are expected from St. Paul Island, Ak., Port of Moses Lake, Wa., Kenai Peninsula, Ak., And Terra Haute, In. Interest in the program has been expressed by Adirondack, N.Y., Durora, Il., And Lexington, Ky. The interest in this program has exceeded all projections. We have been forced, therefore, to a delay establishing service at some locations this Fiscal Year.

Senator Domenici: Which airports will receive additional Customs inspectional services on a reimbursable basis in fiscal year 1989?

Commissioner von Raab: Load growth has required the assignment of 3 inspectors to Wilmington,Oh., and 2 to Fort Wayne, In. We anticipate that additional personnel may be needed at Columbus, Oh., and Fort Myers, Fla.

Senator Domenici: Would you please provide us the amount of revenues collected from each of the designated airports currently reflected in the Treasury receipt accounts established for this purpose?

Commissioner von Raab: ABE ($25,056), Columbus ($34,739), Fargo ($25,056), Fort Myers ($25,056), Wilmington ($37,584), Casper ($35,675), Dona Ana County ($36,675). These figure represent billings through March 31, 1988.

Senator Domenici: Would you please break down the $1,588,000 fiscal year 1989 request for Customs services at small airports by airports?

Commissioner von Raab: Each additional position, if brought on during the first quarter of the FY represents a cost and reimbursement amount of $73,350 for a total of $1,026,900. This is to be added to the $486,000 currently provided for the Program.

OPERATIONS & MAINTENANCE

Senator Domenici: Your fiscal year 1989 air operations and maintenance request reflects $33.4 million in program reductions from fiscal year 1988.

(a) What portion of this reduction is associated with each of the Cariball aerostats and Bahamas Task Force helicopter costs being transferred to the Coast Guard per last year's Memorandum of Understanding between Customs and Coast Guard regarding lead agency drug interdiction roles?

(b) Would you please provide a break-out of the other reductions included in this $33.4 million?

Commissioner von Raab: Listed below is breakout of program reduction from the FY 1988 budget.

	$ In million
Reductions associated with transfer to Coast Guard:	
Cariball Aerostat Lease O&M	$ 6.5
Cariball II Aerostat O&M	2.7
Bahamas Task Force Helicopters	2.5
Other Reductions:	
Albuquerque Hangar	2.0
Helicopter Procurement Options	11.9
Radar Detection Asset	7.8
	$33.4

BAHAMAS

Senator Domenici: In accordance with the Memorandum of Understanding between Customs and the Coast Guard, the operation and maintenance costs of the Bahamas' interdiction assets were to be picked up by the Coast Guard in fiscal year 1988, but the Coast Guard has not yet assumed this funding responsibility and Customs is now paying these costs.

(a) What is the total amount and how is Customs now covering these costs?

(b) In addition, would you please update us as to where you stand in getting the Coast Guard to assume these costs in accordance with the agreement.

(c) Also why is a reduction from fiscal year 1988 to fiscal year 1989 for the Bahamas aerostats and helicopters being taken in the Customs Service budget if fiscal year 1988 budget authority was not provided to the Customs Service for these assets?

(d) What amount necessary to pick up the operation and maintenance costs of the Bahamas aerostats and Task Force helicopters should be reflected in the Coast Guard's fiscal year 1989 budget request?

Commissioner von Raab: The total cost for Cariball I operations is estimated at $7.8 million in FY 1988. The Coast Guard has agreed to provide $2.45 million of the $3.88 million Bahamian Task Force (helicopter) funding currently held by Customs for Cariball I. The remaining balance will be provided by Customs pending Congressional approval of proposed internal reallocations.

The FY 1989 President's budget submission was based on an FY 1988 budget proposal as opposed to budget authority which included a reduction for the Bahamas aerostats and helicopters.

The Customs budget reductions for operations and maintenance costs of the Bahamas aerostats and Task Force helicopters for FY 1989 was are follows:

Bahamas Aerostats (including Cariball I) - $14.0M
Task Force Helicopters - $ 2.5M

BAHAMAS TASK FORCE

Senator Domenici: In fiscal year 1987, $10 million was appropriated to the Customs Service for the Bahamas Task Force. The fiscal year 1987 Supplemental Appropriations Act transferred $4.12 million to the Coast Guard "upon validation of the transfer by the General Accounting Office."

(a) Have these funds been transferred?

(b) When and how was the validation provided by the GAO?

(c) Has the Customs Service expended any of these funds?

(d) What is the unobligated and unexpended balances of the $10 million appropriated in fiscal year 1987?

Commissioner von Raab: In July 1987, $4.12 million was transferred to the Coast Guard based upon guidance provided by GAO to the Acting Comptroller on July 1, 1987.

Of the remaining balance:

- $2.45 million will be provided from funds being held for transfer to Coast Guard for CARIBALL I O&M.
- $1.43 million will be transferred to Coast Guard.
- $1.75 million is pending Congressional approval for reallocation to CARIBALL I O&M.
- $.25 million will fund CARIBALL I marine test.

At this time, of the $10.0 million, $8.128 million has been obligated and $1.872 remains unobligated; $4.12 million has been expended and $5.88 remains unexpended. The balances will be obligated and expended in FY 1988.

DETAILED ACCOUNTING OF CUSTOMS AIRCRAFT
(Currently Operated by Customs as of 3/16/88)

Senator Domenici: Would you please provide us with a detailed accounting of the aircraft now being operated by Customs, identifying purchased, leased and loaned aircraft; and then the same breakdown of the aircraft you intend Customs will be operating by the end of fiscal year 1989?

Commissioner von Raab: The following is a list of the aircraft now being operated by Customs, attached is a detailed list of the aircraft we will be operating by the end of fiscal year 1989.

Aircraft Type	Quantity	Status
INTERDICTION CATEGORY		
Lockheed P-3A	4	On loan from the Navy
Grumman E-2C	2	On loan from the Navy
Cessna Citation II	6	2 are owned/ 4 are leased with purchase option
Piper Cheyenne IIIA	8	Owned
Beechcraft B-200	4	Owned
Beechcraft E-90	1	Owned
Sikorsky Black Hawk	12	8 are on loan from the Army 4 are owned

Aircraft Type	Quantity	Status
TWIN-ENGINE SUPPORT CATEGORY		
Beechcraft C-12C	6	On loan from the Army
Cessna 404	8	Owned
Piper PA-31	11	Owned
Rockwell 680/680F	2	Owned
Beechcraft Baron	1	Owned
Cessna Citation I	1	Owned
Short Sky Van	1	Owned
Cessna 401	1	Owned
Cessna 402	1	Owned
Cessna 340	1	Owned
Cessna 421	1	Owned
Cessna 320	1	Owned
Piper PA-23	1	Owned
SINGLE-ENGINE SUPPORT CATEGORY		
Cessna 210	4	Owned
Cessna 206	1	Owned
T-41 (C-172)	1	Owned
SUPPORT HELICOPTER CATEGORY		
Bell 206	3	Owned
Bell UH-1M	3	Owned
Bell UH-1B	1	Owned
Hughes 500E	1	Owned

DETAILED ACCOUNTING OF CUSTOMS AIRCRAFT
(Expected to Be Operating by the End of 1989)

Aircraft Type	Quantity	Status
INTERDICTION CATEGORY		
Lockheed P-3B AEW	1	Owned
Lockheed P-3A	4	On loan from the Navy
Grumman E-2C	2	On loan from the Navy
Cessna Citation II	10	6 are owned 4 are leased with purchase option
Piper Cheyenne IIIA	8	Owned
Beechcraft B-200	5	Owned
Beechcraft E-90	1	Owned
Sikorsky Black Hawk	12	8 are on loan from the Army 4 are owned
ASTA NOMAD	7	Owned
TWIN-ENGINE SUPPORT CATEGORY		
Beechcraft C-12C	6	On loan from the Army
Cessna 404	15	Owned
Piper PA-31	16	Owned
Cessna Citation I	1	Owned
Short Sky Van	1	Owned

Aircraft Type	Quantity	Status
SINGLE-ENGINE SUPPORT CATEGORY		
Cessna 210	8	Owned
SUPPORT HELICOPTER CATEGORY		
Bell 206	3	Owned
Bell UH-1M	3	Owned
Bell UH-1B	1	Owned
Hughes 500E	3	Owned

O AND M

Senator Domenici: Of the $23.8 million requested to annualize air program operation and maintenance costs, would you please provide us with a breakdown of that amount by category (aircraft, radar platforms, C3I Centers, etc.)

Commissioner von Raab: Listed below is a breakdown of the annualized air program operation and maintenance costs for FY1989.

Program	$ in millions
C3I	$ 4.1
Additional P3 O&M	1.3
SW Aerostats	5.0
NOMAD O&M	5.7
Radar Detection Assets	7.7
TOTAL	$23.8

DOD INVENTORY

Senator Domenici: Does Customs plan to inventory any spare parts now available through the Defense Department? Are you having any difficulty obtaining needed spare parts from the DOD inventory? If so, what problems are you experiencing?

Commissioner von Raab: Customs does plan to inventory some spare parts that are available through the Defense Department but they are in such short supply significant delays are encountered. This is the major difficulty in obtaining spare parts from DOD. Some radar parts have lead times of up to 2 years. There is $6.2 million in the President's Budget to purchase spares with long lead times and Customs unique parts. This encompasses all the different types of radars, FLIRS, inertial navigation equipment and P-3 AEW perculiar spares.

AEROSTATS

Senator Domenici: Which aerostats are planned for which full or partial funding still must be provided? Would you please rank these aerostats in order of funding priority?

Commissioner von Raab: The aerostat system envisioned for deployment by the Government of the Commonwealth of Puerto Rico is currently funded by a grant of $7.8 million and will require an additional $10 to $11.2 million for initial acquisition. Plus approximately $8 million/fiscal year for Operations and Maintenance. This system is last in priority.

AEROSTAT RADIO INTERFERENCE WITH RADIO ASTRONOMY

Senator Domenici: What actions is Customs taking to resolve any radio interference problems (with the VLA and VLBA telescopes specifically) posed by its aerostats?

Commissioner von Raab: Customs is working through the Department of Treasury representative to Interagency Radio Advisory Committee (IRAC) to secure frequency assignments which will minimize potential interference problems. We also have had meetings and discussions with scientists from the National Science Foundation. As a result of this coordination, we have tasked DESCO, the aerostat contractor for the Deming, New Mexico, and Alpine, Texas, sites to redesign their radar for operation at lower frequencies where interference problems are less severe. We also are planning to blank our radar transmissions in the direction of radio telescope sites where ever it may be required.

Senator Domenici: What has been arranged to minimize interference of the Fort Huachuca aerostat on the Kitt Peak station of the VLBA?

Commissioner von Raab: Customs and the National Science Foundation have established a Memorandum of Agreement for operation of the Fort Huachuca aerostat prior to the time when the VLBA becomes operational. During this time, NSF will be taking radio field strength measurements to determine if a potential problem exists. Both Customs and NSF are confident that mutually acceptable technical solutions can be found for any interference problems which might surface.

Senator Domenici: Has the entire system of planned aerostats been looked at in terms of the problems they might pose for the VLA and VLBA telescopes?

Who is Customs talking with on this matter?

Commissioner von Raab: All of the aerostat systems have been considered. Only the Fort Huachuca, Deming, New Mexico, Alpine, Texas, and Puerto Rico systems appear to pose potential radio astronomy interference problems.

Customs has been working through the formal IRAC channels with the NSF IRAC representative. There have also been several meetings of a less formal nature between Customs Research and Development Division staff members and NSF scientists. NSF has proved extremely cooperative and we feel that an excellent working relationship has been established.

Senator Domenici: Can we reach mutually acceptable solutions in your view to avoid radio interference problems to allow effective operation of the VLA and VLBA telescopes and not compromise the utilization of the aerostats when operational?

Commissioner von Raab: Based on our current understanding of the problems and our experience in working with NSF, we are confident that mutually acceptable technical solutions can be found. At Alpine, some degree of compromise may be necessary in terms of cooperative scheduling of operations. However, we believe that the overall impact on operational effectiveness will be minimal.

REIMBURSING STATE AND LOCAL AGENCIES

Senator Domenici: The fiscal year 1988 Further Continuing Appropriations Act provides express authority for the Customs Service to reimburse state and local law enforcement for their participation in special or joint operations with the Customs Service. This allows Customs to provide equipment, training, supplies and overtime pay to state and local agencies participating in joint drug interdiction activities with the Service.

Is funding available in fiscal year 1988 to provide reimbursement to state and local law enforcement agencies under this new authority? What amount?

Commissioner von Raab: Yes, $750,000 has been identified as part of the Customs forfeiture fund spending plan for fiscal year 1988 to reimburse state and local agencies involved in joint operations.

Senator Domenici: What level of funding is included in your fiscal year 1989 budget request for these purposes?

Commissioner von Raab: The level of funding for fiscal year 1989 for this purpose has yet to be determined. However, a minimum of $750,000 will be set aside in the forfeiture fund, with a recommendation of additional funds over and above this amount predicated upon availability of the forfeiture fund.

FY 1988 STAFFING LEVELS

Senator Domenici: Can you provide a regional and state-by-state breakdown of Customs staffing levels for fiscal year 1988 showing how the positions will be utilized?

Commissioner von Raab: Attached is the requested breakdown.

U.S. CUSTOMS SERVICES INCREASES FOR
FISCAL YEAR 1980
(Includes all offices at those locations)

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & -Audit	Security Legal Other	Total
NORTHEAST REGION												
Baltimore, MD	7	1	0	0	0	0	0	1	1	0	0	10
Boston, MAS	8	2	17	0	3	8	0	6	2	10	0	56
Buffalo, NY	0	1	0	0	0	0	0	0	2	0	0	3
Ogdensburg, NY	0	1	0	0	0	0	0	0	1	0	0	2
Philadelphia, PA	0	1	0	0	0	0	0	1	0	5	0	7
Portland, ME	0	1	0	0	0	0	0	1	0	0	0	2
St. Albans, VT	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Northeast Region	15	7	17	0	3	8	0	9	6	15	0	80
New York Region												
New York	0	13	51	0	11	0	0	20	1	19	0	115
JFK International	15	0	0	0	0	0	0	5	7	0	0	27
Subtotal, New York Region	15	13	51	0	11	0	0	25	8	19	0	142

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
North Central Region												
Chicago, Ill	10	1	50	0	0	13	0	6	1	6	0	87
Cleveland, OH	11	1	0	0	0	0	0	3	0	0	0	15
Detroit, MI	0	0	0	0	0	0	0	0	1	1	0	2
Great Falls, MT	0	2	0	0	0	0	0	0	0	0	0	2
Milwaukee, WI	0	0	0	0	0	0	0	1	0	0	0	1
Denver, CO	0	0	0	0	0	0	0	1	0	0	0	1
Cincinnati, OH	0	0	0	0	0	0	0	0	0	5	0	5
St. Louis, MO	0	2	0	0	0	0	0	1	0	5	0	8
Minneapolis, MN	0	0	0	0	0	0	0	0	0	0	0	0
Pembina, ND	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, North Central Region ...	21	6	50	0	0	13	0	12	2	17	0	121
SOUTHEAST REGION												
Savannah, GA	0	1	0	0	0	0	0	3	2	0	01	6
Tampa, FL	0	2	0	0	0	0	0	2	1	0	0	5
Miami, FL	51	3	18	0	1	0	0	3	3	3	0	82
Freeport, Bahamas	2	0	0	0	0	0	0	0	0	0	0	2
Norfolk, VA	1	0	0	0	0	0	0	0	0	0	0	1
Charleston, SC	0	2	0	0	0	0	0	1	1	0	0	4
Wilmington, NC	5	1	0	0	0	0	0	2	0	0	0	8
Charlotte, NC	0	0	0	0	0	0	0	0	0	6	0	6
Atlanta, GA	0	0	0	0	0	0	0	0	0	7	0	7

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
Jacksonville, FL	0	0	0	0	0	0	0	0	0	0	0	0
Pensacola, FL	0	0	0	0	0	0	0	0	0	0	0	0
Tyndall, FL	0	0	0	0	0	0	0	0	0	0	0	0
Puerto Rico	0	0	0	0	0	0	0	0	0	0	0	0
Washington, D.C.	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Southeast Region	59	9	18	0	1	0	0	11	7	16	0	121
SOUTH CENTRAL REGION												
Mobile, AL	0	1	0	0	0	0	0	0	0	1	0	2
New Orleans, LA	0	0	8	0	0	6	0	2	0	4	0	20
Memphis, TN	3	1	0	0	0	0	0	0	0	0	0	4
Nashville, TN	0	0	0	0	0	0	0	0	0	3	0	3
Subtotal, South Central Region ...	3	2	8	0	0	6	0	2	0	8	0	29
SOUTHWEST REGION												
Laredo, TX	49	1	0	0	0	0	0	1	1	0	0	52
El Paso, TX	75	4	0	0	0	0	0	1	1	1	1	83
Nogales, AZ	27	1	0	0	0	0	0	2	0	0	0	30
Dallas/Ft. Worth, TX .	0	1	0	0	0	0	0	1	0	3	0	5

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
San Antonio, TX	0	0	0	0	0	0	0	0	0	0	0	0
Houston, TX	0	1	8	14	0	0	0	0	2	10	0	35
Tucson, AZ	0	0	0	0	0	0	0	0	0	0	0	0
Corpus Christi, TX ...	0	0	0	0	0	0	0	0	0	0	0	0
San Angelo, TX	0	0	0	0	0	0	0	0	0	0	0	0
Phoenix, AZ	0	0	0	0	0	0	0	0	0	0	0	0
Albuquerque, NM	0	0	0	0	0	0	0	0	0	0	0	0
Oklahoma City, OK	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Southwest Region	151	8	8	14	0	0	0	5	4	14	1	205
Pacific Region												
San Diego, CA	48	1	0	0	0	0	0	1	2	0	0	52
Los Angeles, CA	5	1	20	0	5	0	0	28	1	13	0	73
San Francisco, CA	6	1	0	0	0	0	0	4	2	0	0	13
Portland, OR	7	0	0	0	0	0	0	2	0	3	0	12
Honolulu, HI	2	0	0	0	0	0	0	0	1	0	0	3
Seattle, WA	0	1	0	0	0	0	0	2	2	1	0	6
San Jose, CA	0	0	0	0	0	0	0	0	0	3	0	3
Riverside, CA	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Pacific Region	68	4	20	0	5	0	0	37	8	20	0	162

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
SUBTOTAL, CUSTOMS OPERATIONS	332	49	172	14	20	27	0	101	35	109	1	860
Other Positions	10	0	14	0	32	4	46	20	4	60	37	227
TOTAL CUSTOMS OPERATIONS	342	49	186	14	52	31	46	121	39	169	38	1,087

Note: Regional cities include some positions which have not yet been allocated by the regions to the districts.

COBRA AND OBRA

Senator Domenici: Would you please provide for the record the receipt streams for both the Customs passenger/vehicle processing (COBRA) fees and the ad valorem import (OBRA) fees included in the fiscal year 1989 budget, giving us the 1987 actuals and the projected fiscal year 1988, 1989, 1990 receipts for each.

Commissioner von Raab: The receipt streams for COBRA and OBRA are as follows:

	FY 87 Actual	FY 88 Current Law	FY 89 Proposed Legislation	FY 90
COBRA	103	125	130	135
OBRA	536	662	560	539*

*Reflects Canada Free Trade

Senator Domenici: What amount of overtime do you project will be expended out of the COBRA fees in each of fiscal years 1988 and 1989?

Commissioner von Raab: We expect to expend $88.5 million in FY 1988 and $96.1 million in FY 1989 from the COBRA fees.

SOUTHWEST BORDER COMMERCIAL STAFFING

Senator Domenici: Of the additional commercial positions funded in fiscal year 1988, how many are going to the Southwest border? What will the total commercial staffing level be on the Southwest border? Can you give us a state-by-state breakdown of that total?

Commissioner von Raab: Of the additional commercial positions funded in fiscal year 1988, a total of 216 have been allocated to the Southwest border districts of Laredo, TX, El Paso, TX, Nogales, AZ, and San Diego, CA. This brings commercial staffing at the Southwest border up to a total of 1,203 positions, as follows:

FY 1988 Commercial Staffing
Southwest Border

District	Positions
San Diego, CA	337
Nogales, AZ	167
El Paso, TX	247
Laredo, TX	452
Total	1,203

CUSTOMS PERSONNEL ASSIGNED TO OPERATION ALLIANCE

Senator Domenici: How many Customs personnel are assigned to Operation Alliance in fiscal year 1988? How does this compare with fiscal year 1987 and what is your planned personnel commitment to Alliance in fiscal year 1989? Can you provide a state by state breakdown of these?

Commissioner von Raab: Customs has recruited and filled 1,244 positions in support of Operation Alliance as of fiscal year 1988. This is an increase of 297 positions from the total of 947 personnel assigned to Operation Alliance in fiscal year 1987. Customs has a planned commitment of additional personnel to Operation Alliance in fiscal Year 1989 based on the passage of the 1988 Drug Bill in which there is a proposed allocation of 600 additional positions for the Customs Service. An appropriate number of these additional personnel would be devoted solely to the support and enhancement of Operation Alliance. The following is a breakdown by state of Customs personnel assigned to Operation Alliance to date:

STATE	FY 86	FY 87	FY 88	TOTALS
TEXAS	192	233	164	589
NEW MEXICO	24	34	4	62
ARIZONA	58	65	31	154
CALIFORNIA	110	231	98	439
TOTAL	384	563	297	1244

DRUGS CROSSING THE SOUTHWEST BORDER

Senator Domenici: What is the amount of marijuana, heroin, and cocaine estimated to have come across the Southwest border in 1987? How do these estimates compare with previous years?

Commissioner von Raab: The Customs Service uses the annual National Narcotics Intelligence Consumers Committee (NNICC) reports to estimate the amount of drugs coming to the United States. According to The NNICC Report 1987, between 6,820,000 and 9,240,000 pounds of Mexican marijuana was available for use in the United States. This compares with 6,600,000 to 8,800,000 pounds in each of 1985 and 1986, an increase of about three percent. The NNICC Report 1987 estimates that between 9,900 and 12,100 pounds of Mexican heroin was available for export to the United States in 1987. This compares with 4,400 to 8,800 pounds in 1986 and 6,160 pounds in 1985. This is an increase in 1986 of about seven percent over 1985 and a 67 percent increase in 1987 over 1986. The NNICC Report 1987 does not estimate cocaine coming to the United States or the percentage coming by way of Mexico. Customs cocaine seizures along the southwest border through September 1987 amount to 13.6 percent of the total Customs cocaine seizures. This compares with 6.3 percent and 2.7 percent of totals for 1986 and 1985 respectively. Total amounts of Customs cocaine seized on the border nearly tripled in each of the last two years.

OPERATION ALLIANCE SEIZURES AND ARRESTS

Senator Domenici: What are the statistics on arrests and seizures (both number and quantity of seizures) as a result of Operation Alliance in fiscal year 1987? How do these statistics compare with arrests and seizures to date for fiscal year 1988?

Commissioner von Raab: In fiscal year 1987 there were a total of 4,998 arrests attributed to Operation Alliance resulting in 6,547 seizures including, 298,289 pounds of marijuana, 18,744 pounds of cocaine and 116 pounds of heroin. To date, in fiscal year 1988 there have been 2,579 arrests resulting in 3,754 seizures including, 114,459 pounds of marijuana, 5,586 pounds of cocaine and 57 pounds of heroin.

The above seizure amounts are from El Paso Intelligence Center statistics and do not include seizures of minimum amounts of narcotics.

NEW MEXICO ARRESTS AND SEIZURES AS A RESULT OF ALLIANCE

Senator Domenici: Can you please give me the number of drug related arrests and seizures in New Mexico as a result of Operation Alliance in fiscal year 1987?

Commissioner von Raab: Customs arrests and seizures for New Mexico in Fiscal year 1987 have increased significantly over Fiscal years 1985 and 1986. State and local participation in Alliance has dramatically changed the arrest/seizure picture in New Mexico in Fiscal year 1987. The following is a breakdown of drug related arrests and seizures:

FY 1987 (10-1-86 to 9-30-87)

	STATE AND LOCAL ALLIANCE	FEDERAL ALLIANCE	TOTAL FY 1987
ARRESTS	24	127	151
SEIZURES	127	242	369
HEROIN	1 LB.	0	1 LB.
COCAINE	196 LBS.	2,019 LBS.	2,215 LBS.
MARIJUANA	4,435 LBS.	3,707 LBS.	8,142 LBS.
MONETARY INSTRUMENTS	$897,977	$586,778	$1,484,755
VEHICLES	83	60	143
AIRCRAFT	2	0	2
WEAPONS	2	2	4

CENTRALIZED EXAMINATION STATIONS (CES)

Senator Domenici: How may CES's are operational at the present time?

Commissioner von Raab: There are currently 114 CES's that are operational in the country.

Senator Domenici: Why were CES's established and what do they enable Customs to do?

Commissioner von Raab: CES's were established to examine cargo which traditionally was examined at geographically separated locations. At the present time, Customs releases approximately 80 percent of the cargo which enters the United States without having to perform physical examinations of the cargo. However, because examination sites were often widely scattered throughout ports, the examination of cargo caused logistical and staffing problems for the U.S. Customs Service. Customs inspectors often had to incur an inordinate amount of nonproductive travel time. In addition, many of the locations where Customs examined cargo were inadequate.

By establishing and utilizing CES's Customs is reducing the amount of time inspectors spend in nonproductive travel that is often associated with examining cargo at diverse locations. This allows Customs to use staffing and physical resources more efficiently. In addition, because examinations are now performed at adequate facilities CES's have allowed the Customs Service to perform more effective and uniform examinations of imported merchandise.

Senator Domenici: Why are CES's a more efficient and effective means of examining cargo than methods that were formerly employed for examining cargo?

Commissioner von Raab: Formerly, inspectors visited locations that were geographically separated to perform examinations. Often, because of the lack of space, tools, equipment, and labor these facilities were not adequate for performing examinations.

Because exams are now performed at centralized locations, we are able to use our staffing and physical resources more efficiently, and because CES's contain the equipment and labor to efficiently, devan containers, as well as the tools and personnel to examine cargo, we are able to perform more effective examinations.

Senator Domenici: Are CES's applicable to land border situations and airports?

Commissioner von Raab: A CES may be established at a land border or an airport if the existing facilities do not provide space and equipment needed for the proper examination of cargo, or if cargo examinations are presently being performed at multiple CFS or importers facilities throughout the port.

Senator Domenici: Does Customs have the right to designate where imported cargo is examined?

Commissioner von Raab: It has long been recognized that Customs may direct and control the place, time, and conditions of the unloading and exhibition of imported merchandise without expense to the United States. This conclusion is based on statutes and regulations that require importers to make their merchandise available for Customs examination, (19 U.S.C. 1461, 1467, 1499 and 19 CFR 151.6 and 151.7). The Attorney General came to this same conclusion in an opinion which states that the United States has the power to require owners of merchandise to unlade their cargo for the purpose of Customs examinations at the expense of the owner, (35) O.A.G. 431 (1928).

Senator Domenici: Should the importer pay for the examination of cargo brought to a CES?

Commissioner von Raab: As stated in the previous answer, it is held that the owners of imported merchandise will bear costs related to the unloading and exhibiting of their cargo for the U.S. Customs Service. These costs include presentation of cargo at a facility (CES) designated by Customs for examination.

Senator Domenici: What costs are related to examinations performed at a CES that would not normally be involved with Customs examination at a cargo freight station or carrier location?

Commissioner von Raab: The only additional costs to the importer for having merchandise examined at a CES are those associated with transferring the cargo to a CES for examination, and the costs related to locating and designating pieces for transfer to a CES.

Senator Domenici: What would be the effect of suspending operation at all CES's? Who would be affected?

Commissioner von Raab: Without CES's, Customs ability to provide expeditious service to the trade, including rapid and predictable release times for the release of cargo, our ability to perform efficiently as an organization, and our ability to perform effective and uniform examinations will be severely compromised. If CES's were to suspend operations to the Customs Service, the trade and the importing community would be negatively impacted.

Senator Domenici: What has been the impact on Customs of the Reconciliation Act Provision that suspended CES airport operations?

Commissioner von Raab: The suspension of the CES's which operated at airports has affected Customs ability to operate effectively and efficiently, and negatively impacted our ability to provide service to the trade community. As a result of the suspension, Customs has been forced to reallocate our staff, increase the use of our vehicles, and adjust the number of hours and the hours of service which we provide to the trade at airports.

Because we no longer staff many air cargo facilities full-time, or have a CES, the suspension has affected our ability to examine cargo expeditiously, and affected the carrier's ability to deliver cargo quickly. This in turn, may affect the consignees ability to receive their cargo in a timely fashion.

The suspension of the CES at airports has also affected our ability to utilize our staff efficiently. Inspectors are now required to visit geographically separated locations to examine cargo, as a result inspectors now incur a large amount of non-productive travel time driving from location to location to examine cargo. In addition, because inspectors now travel to different areas in order to examine cargo, Customs was also required to substantially increase the number of vehicles we use to examine cargo at airports. The increased use of vehicles has resulted in greater costs for our agency.

Senator Domenici: What adverse reactions has Customs had from the trade to the suspension of its CES airport operations?

Commissioner von Raab: Since the suspension of airport CES's, Customs has received many letters from members of the trade who have voiced their support for the CES program.

The adverse reactions that Customs has had from the trade concern reports of reduced service and delays in the processing and examination of merchandise by Customs. However, the delays experienced by importers are occurring because inspectors must now visit facilities to examine cargo on an "as needed," or scheduled basis. In addition, because inspectors are no longer staffing CES's, and therefore, they are not available at all times to examine cargo, the trade views the suspension of CES's as a reduction in service.

CUSTOMS FORFEITURE FUND

Senator Domenici: The fiscal year 1989 budget requests a $10 million limitation on the availability of deposits in the Customs forfeiture fund for fiscal year 1989. Cculd you please tell me the amount of collections that are reflected in the special fund receipt account for this fund in fiscal year 1989?

Commissioner von Raab: In fiscal year 1989 we anticipate collections of $51,830,000. This is in addition to the $20 million remaining in the account from prior year collections.

Senator Domenici: I note in the Budget Appendix that a transfer from the Forfeiture Fund to general fund receipts is being made. Under what authority is this transfer to the general fund being made?

Commissioner von Raab: Customs is directed to make this transfer by P.L. 99-570 which states that "At the end of each fiscal years 1987, 1988, 1989, and 1990, any amount in the fund in excess of $20,000,000 shall be deposited in the general fund of the Treasury."

Senator Domenici: If the subcommittee lifted the limitation on expenditures of deposits in the forfeiture fund and enabled Customs to expend "such sums as may be necessary," what would the estimated spending level be for fiscal year 1989?

Commissioner von Raab: We believe both receipts and expenditures from the fund would estimate $10-$15 million.

FTZ/BONDED WAREHOUSE PROGRAMS

Senator Domenici: The 1987 Reconciliation Act mandated Customs to cease collections to operate bonded warehouse/foreign-trade zone programs. What is the impact of this on your field operations?

Commissioner von Raab: Customs has achieved notable savings through better management of its foreign-trade zone and bonded warehouse programs in the past few years. A program which formerly cost the taxpayer and the trade more than $12 million annually, now costs only $3 million. However, proper law enforcement in these facilities requires maintenance of staffing at this level. The immediate impact of the loss of $3 million has been to reduce Customs attention to warehouse/FTZ programs to an unacceptable low level, while at the same time having to divert staffing from other programs to maintain even a sub-minimum level of supervision in these programs. Customs has consequently been forced to cut back on approvals of new bonded warehouses and foreign-trade zones.

NORTHERN BORDER STRATEGY

Senator Domenici: What is the Northern Border Enhancement Test?

Commissioner von Raab: The Northern Border Enhancement Test (NBET) was a program designed to test Customs strategy for maximizing the efficiency of our cargo processing operations along the northern border. The Northern Border Enhancement Strategy is an effort to concentrate our staffing and automation resources where they will be best utilized, at ports designated as Commercial Centers. This strategy will facilitate the movement of trade across our busiest ports where historically, 95 percent of the cargo processing takes place. This program will permit us to fulfill our enforcement responsibilities as efficiently as possible, while providing the highest level of service to the traveling and importing public. Although we believe this program will encourage the use of Commercial Centers, we do not anticipate a dramatic decline in activity at non-commercial center ports. Passenger processing, informal commercial entries, and non-commercial shipments at the smaller ports will not be affected. Additionally, to prevent the disruption of existing corporate operations and established transportation routes, certain formal entries will be allowed to cross at these locations.

Senator Domenici: What is a Commercial Center?

Commissioner von Raab: A Commercial Center is a predesignated 24-hour port of entry designed to fully process any arriving cargo. Each Commercial Center will have these essential characteristics:

- Open 24 hours for cargo processing;
- all automated border cargo processing systems (Line Release and ACS Cargo Selectivity as well as entry summary processing systems);
- devanning examination facilities;
- sufficient staffing to ensure rapid processing; and
- enforcement capabilities.

Senator Domenici: How many will there be?

Commissioner von Raab: We have identified 26 Commercial Centers, based on the 24-hour staffing requirement, volume of formal entry activity, feasibility of carrying out devannings and intensive examinations, geographic considerations, and major transportations routes. The designated Commercial Centers are located as follows:

WASHINGTON
Sumas
Blaine
Oroville

IDAHO
Eastport

MONTANA
Sweetgrass
Raymond

MINNESOTA
Warroad
International Falls

NEW YORK
Buffalo
Alexandria Bay
Ogdensburg
Massena
Champlain

VERMONT
Highgate Springs
Derby Line
Norton

MAINE
Jackman
Houlton
Calais

NORTH DAKOTA
Portal
Dumseith
Pembina

MICHIGAN
Sault Ste. Marie
Port Huron
Detroit

Senator Domenici: What is a Permit Port?

Commissioner von Raab: All northern border ports of entry not designated as Commercial Centers will be "Permit Ports". At the Permit Port there will be no change in passenger processing, or the handling of informal commercial entries, and non-commercial shipments. The greater impact will be on the treatment of formal entries. Formal entries will be allowed to cross at these locations providing the broker has applied to the district and received a permit. Generally, these locations are equipped to handle repetitive, low-risk types of importations. District policy in granting permits will take into consideration: the complexity of the shipment (in terms of conducting an adequate inspection at the non-commercial center), established transportation routes, and the potential hardship for the importer/shipper in rerouting through a Commercial Center.

Senator Domenici: What are the cargo processing implications of complex types of shipments at towns on or near the border which are not Commercial Centers?

Commissioner von Raab: Arrangements can be made for these importations. The guiding principle used in the

Maine test was whether or not being directed to a Commercial Center was a hardship.

Senator Domenici: Where and when will the Northern Border Enhancement Test be piloted?

Commissioner von Raab: The Northern Border Enhancement pilot began in Maine on September 1, 1987. The pilot ran for six months, from September 1, to February 29.

Senator Domenici: When will it be evaluated?

Commissioner von Raab: The Northern Border Enhancement's Maine pilot was evaluated shortly after February 29, 1988 - the close of the six month test. The evaluation was positive. It appears that the trade and broker community have accepted the strategy and can see some benefits. Original concerns regarding the Permit Ports have been resolved. Panic and fear that this program would lead to a dramatic reduction in traffic at the Permit Ports and the ultimate reduction in hours of service and/or closure of these locations was eliminated. Once sources of misinformation were better informed and retraction and corrections were communicated, inquiries and complaints from the trade disappeared.

Senator Domenici: How was the pilot of the Northern Border Enhancement Test announced?

Commissioner von Raab: The Northern Border Enhancement Test was announced in September of 1986, to several congressional delegations and the broker community, when it was first proposed that a pilot include two states, Maine and Washington. In December of 1986, additional congressional briefings took place. It was later determined that Maine would be the best test site, and numerous meetings between Customs, the brokers, and all other interested parties followed. A local Maine, Customs newsletter, dated February 11, 1987, outlined the pilot and changes in cargo release procedures at the Commercial Centers and Permit Ports well in advance of the initiation of the pilot. The Customs Trade Topics Bulletin of October 1987, featured the Northern Border Enhancement Test and the Maine pilot. Since September of 1987, Customs has met with all interested congressional groups to provide briefings on the program and answer any questions.

EXPRESS CONSIGNMENT (Courier) OPERATIONS

Senator Domenici: What is the present status of the express consignment industry?

Commissioner von Raab: Currently, there are six courier operations involved in the express consignment industry. They are: Emery at Dayton, Ohio; DHL at Cincinnati, Ohio; Flying Tigers at Columbus, Ohio; Airborne at Wilmington, Ohio; Federal Express at Memphis, Tennessee; and UPS at Louisville, Kentucky. The approximate volume of transactions over the past year at these facilities is as follows:

Total Packages	:	Over 40 Million
Formal and Informal Entries	:	745,000
In-Bond Entries	:	66,000

Senator Domenici: What are some of the current problems associated with courier operations?

Commissioner von Raab: The express consignment industry is specifically designed to provide a guaranteed timely delivery of packages, mostly consisting of documentation. This necessitates the time sensitive clearance of cargo and the processing of entries by Customs. It should be noted that the express consignment industry has averaged more than a 400 percent increase in imported cargo over the last 2 years while Customs staffing levels at these facilities have remained static due to manpower constraints.

Senator Domenici: What are the reasons for the proposed rule on the establishment of procedures for the clearance of cargo carried by express consignment operators or carriers?

Commissioner von Raab: In an effort to meet the demands for the time sensitive clearance of the large volume of packages carried by couriers, Customs intends to amend the Customs Regulations by providing specific rules governing the entrance and clearance of this merchandise. By mandating the use of automated systems involving manifest and entry data, Customs will be better able to meet this growing industry's needs while ensuring compliance with all trade laws with existing manpower.

COLUMBUS, NEW MEXICO PORT OF ENTRY WORKLOAD

Senator Domenici: Would you please give me the number of border crossings and imports/exports between Mexico and New Mexico through the Columbus, N.M., Port of Entry in calendar year 1987.

Commissioner von Raab: During calendar year 1987, 363,123 vehicles entered the U.S. at Columbus, New Mexico. A total of 1,810,222 individuals, both passengers and pedestrians, entered the U.S. at this port of entry. 762 formal entries were filed at Columbus, while 1735 informal entries (shipments valued under $1,000) were processed. 3,173 Shippers Export Declarations were also filed during this time period.

CUSTOMS PERSONNEL DETAILED TO SECRET SERVICE

Senator Domenici: What number of Customs personnel are being detailed to the Secret Service in each of fiscal years 1988 and 1989 to assist the Service in its Presidential campaign protection responsibilities?

Commissioner von Raab: The Customs Service has provided 750 trained criminal investigators who are dedicated to assist the Secret Service in the protection of Presidential candidates. Of this number, 400 investigators have been assigned to the travelling teams who are scheduled for 21 day rotational travelling details.

The remaining 350 investigators are on call in the areas in which they reside. They support the Secret Service by providing manpower when a candidate is campaigning in their work area.

The Secret Service called upon Customs Criminal Investigators to protect candidates beginning in December 1987. The Secret Service Candidate Protection Unit anticipates utilizing Customs personnel through the election in November 1988.

CUSTOMS EMPLOYEE DRUG TESTING

Senator Domenci: What employee/applicant drug testing is now being done by the Customs Service? How many employees/applications are being tested in each of fiscal years 1987 and 1988? What is the fiscal year 1988 cost of your drug testing program? What is the estimated fiscal year 1989 cost? What is the cost per test?

Commissioner von Raab: Drug screening tests are required for Customs occupations which meet one of the following criteria; direct involvement with drug interdiction, the carrying of firearms, and access to classified information. Customs drug screening program covers five of the most commonly abused drugs in our society -- i.e., (marijuana) cannabinoids, amphetamines, cocaine opiates, and phencyclidine (PCP).

A total of 1,368 Customs employees and applicants were tested in FY 1987, and as of May 6, 1988, 2,390 have been tested in FY 1988. The FY 1988 and FY 1989 estimated costs for Customs drug testing program are estimated at $250,000 a year. It costs $44.64 to perform each test.

Senator Domenici: Is your current employee drug testing program consistent with the random drug testing plan required under the President's Executive Order for a Drug Free Federal Workplace? If not, when do you plan to implemement such a plan?

Commissioner von Raab: Customs had implemented its employee/applicant drug testing program prior to the Executive Order. We subsequently received approval of that existing plan.

Within several months it is anticipated that Customs will implement a random drug testing program for employees occupying positions containing the criteria mentioned above. Selections for testing would be made randomly by a computer. The random drug testing computer file will consist of all employees who have been identified as occupying testing-designated positions.

ZERO TOLERANCE

Senator Domenici: What is the "Zero Tolerance" program and has it been implemented?

Commissioner von Raab: The intent of the Zero Tolerance Program is to secure prosecution of all individuals who attempt to illegally import (or export) illicit controlled substances regardless of amount. On April 1, 1988, the U.S. Attorney General solicited the help of U.S. Attorneys in securing prosecution of drug violators found to be in the possession of user amounts of illicit drugs. The cooperation and participation of U.S. Attorneys is foremost to the program.

This program creates a position of no leniency towards personal quantity users of drugs. Though Customs continues to have sucess on a larger scale in intercepting and interdiciting drug traffickers, it is time for our war on illegal drugs to also focus on an often overlooked target --- the user.

The Customs Zero Tolerance Program was formally implemented on March 21, 1988. We have implemented many initiatives aside from the major tenet of the program which is securing prosecution in every drug violation case regardless of amount. Some of those initiatives are:

a). A Zero Tolerance Warning is being placed on the new Customs Declaration; Zero Tolerance posters will be placed strategically at the ports of entry and nearby billboards. These efforts will give an atmosphere at our POEs that Customs is intolerant to drugs, regardless of amount.

b). The Attorney General has solicited the help of U.S. Attorneys in the prosecution of cases involving user amounts of illicit drugs. In addition, we are seeking the help of the Vice President to prompt the Justice Department in taking a more active role in influencing the U.S. Attorneys to support Zero Tolerance.

c) Beginning on May 1, the Federal Highway Administration will disqualify commercial drivers found by Customs to be in the possession of narcotics and subsequently convicted of the felony (smuggling) or misdemeanor (possession).

d) We are seizing and immediately forfeiting vehicles found to contain illicit controlled substances and/or drug paraphernalia.

e) On March 15, we began seizing U.S. passports as evidence in prosecution.

f) We are seizing INS documentation such as Resident Alien Cards, Resident Alien Commuter Cards, Border Crossing Cards, as evidence in prosecution. Agents will be coordinating bearer drug arrests with their counterparts so that INS can investigate the alien's status in the U.S.

g) We are installing passport (document) readers at our ports of entry.

h) We are in the process of eliminating the privilege of supplemental petition in those cases involving seizure and forfeiture of conveyances used to import or facilitate the importation of drugs.

i) We have submitted a proposal for legislation to double civil administrative penalties for possession of controlled substances from 200 to 400 percent.

j) We have informed the Deputy Minister, Revenue Canada, Customs and Excise, of the implementation of Zero Tolerance and have requested his support in our efforts to stem the flow of illicit drugs in North America.

k) The State Department supports the goal of user accountability. The Bureau of Consular Affairs is placing a drug warning poster modeled on the Customs poster in all consular offices abroad. In addition, to reinforce the message, an abbreviated version of the "THINK TWICE" poster will be inserted in the alien's passport when the visa is issued. Moreover, with every passport issued, a copy of Travel

Warning on Drugs Abroad pamphlet will be issued.

1) Two new Zero Tolerance initiatives are being considered:

   1. FAA notification when prosecution and conviction is obtained regarding controlled substance violators who are airline or private aircraft pilots.

   2. When a violator has been issued any Federal license, Customs will notify the appropriate government agency of the seizure and whether or not prosecution was secured.

QUESTIONS SUBMITTED BY ALFONSE M. D'AMATO

PLACEMENT OF ADDITIONAL PERSONNEL

Senator D'Amato: Your budget justification on page 40 for the summary of employment indicates the category of inspector increases from 4,386 positions in FY 1987 to 4,814 in FY 1988. Investigation Agents increase from 1,166 in FY 1987 to 1,618 in FY 1988.

Has a Decision been reached as to the placement of these additional personnel? Please provide a full regional breakdown on these assigments when they are made.

Commissioner von Raab: A decision has been reached as to the placement of additional personnel for FY 1988. The attached table shows the increases for fiscal year 1988.

U.S. CUSTOMS SERVICES INCREASES FOR FISCAL YEAR 1988

(Includes all offices at those locations)

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
NORTHEAST REGION												
Baltimore, MD	7	1	0	0	0	0	0	1	1	0	0	10
Boston, MAS	8	2	17	0	3	8	0	6	2	10	0	56
Buffalo, NY	0	1	0	0	0	0	0	0	2	0	0	3
Ogdensburg, NY	0	1	0	0	0	0	0	0	1	0	0	2
Philadelphia, PA	0	1	0	0	0	0	0	1	0	5	0	7
Portland, ME	0	1	0	0	0	0	0	1	0	0	0	2
St. Albans, VT	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Northeast Region	15	7	17	0	3	8	0	9	6	15	0	80
New York Region												
New York	0	13	51	0	11	0	0	20	1	19	0	115
JFK International	15	0	0	0	0	0	0	5	7	0	0	27
Subtotal, New York Region	15	13	51	0	11	0	0	25	8	19	0	142

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
North Central Region												
Chicago, Ill	10	1	50	0	0	13	0	6	1	6	0	87
Cleveland, OH	11	1	0	0	0	0	0	3	0	0	0	15
Detroit, MI	0	0	0	0	0	0	0	0	1	1	0	2
Great Falls, MT	0	2	0	0	0	0	0	0	0	0	0	2
Milwaukee, WI	0	0	0	0	0	0	0	1	0	0	0	1
Denver, CO	0	0	0	0	0	0	0	1	0	0	0	1
Cincinnati, OH	0	0	0	0	0	0	0	0	0	5	0	5
St. Louis, MO	0	2	0	0	0	0	0	1	0	5	0	8
Minneapolis, MN	0	0	0	0	0	0	0	0	0	0	0	0
Pembina, ND	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, North Central Region ...	21	6	50	0	0	13	0	12	2	17	0	121
SOUTHEAST REGION												
Savannah, GA	0	1	0	0	0	0	0	3	2	0	0	6
Tampa, FL	0	2	0	0	0	0	0	2	1	0	0	5
Miami, FL	51	3	18	0	1	0	0	3	3	3	0	82
Freeport, Bahamas	2	0	0	0	0	0	0	0	0	0	0	2
Norfolk, VA	1	0	0	0	0	0	0	0	0	0	0	1
Charleston, SC	0	2	0	0	0	0	0	1	1	0	0	4
Wilmington, NC	5	1	0	0	0	0	0	2	0	0	0	8
Charlotte, NC	0	0	0	0	0	0	0	0	0	6	0	6
Atlanta, GA	0	0	0	0	0	0	0	0	0	7	0	7

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
Jacksonville, FL	0	0	0	0	0	0	0	0	0	0	0	0
Pensacola, FL	0	0	0	0	0	0	0	0	0	0	0	0
Tyndall, FL	0	0	0	0	0	0	0	0	0	0	0	0
Puerto Rico	0	0	0	0	0	0	0	0	0	0	0	0
Washington, D.C.	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Southeast Region	59	9	18	0	1	0	0	11	7	16	0	121
SOUTH CENTRAL REGION												
Mobile, AL	0	1	0	0	0	0	0	0	0	1	0	2
New Orleans, LA	0	0	8	0	0	6	0	2	0	4	0	20
Memphis, TN	3	1	0	0	0	0	0	0	0	0	0	4
Nashville, TN	0	0	0	0	0	0	0	0	0	3	0	3
Subtotal, South Central Region ...	3	2	8	0	0	6	0	2	0	8	0	29
SOUTHWEST REGION												
Laredo, TX	49	1	0	0	0	0	0	1	1	0	0	52
El Paso, TX	75	4	0	0	0	0	0	1	1	1	1	83
Nogales, AZ	27	1	0	0	0	0	0	2	0	0	0	30
Dallas/Ft. Worth, TX .	0	1	0	0	0	0	0	1	0	3	0	5

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
San Antonio, TX	0	0	0	0	0	0	0	0	0	0	0	0
Houston, TX	0	1	8	14	0	0	0	0	2	10	0	35
Tucson, AZ	0	0	0	0	0	0	0	0	0	0	0	0
Corpus Christi, TX ...	0	0	0	0	0	0	0	0	0	0	0	0
San Angelo, TX	0	0	0	0	0	0	0	0	0	0	0	0
Phoenix, AZ	0	0	0	0	0	0	0	0	0	0	0	0
Albuquerque, NM	0	0	0	0	0	0	0	0	0	0	0	0
Oklahoma City, OK	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Southwest Region	131	8	8	14	0	0	0	5	4	14	1	205
Pacific Region												
San Diego, CA	48	1	0	0	0	0	0	1	2	0	0	52
Los Angeles, CA	5	1	20	0	5	0	0	28	1	13	0	73
San Francisco, CA	6	1	0	0	0	0	0	4	2	0	0	13
Portland, OR	7	0	0	0	0	0	0	2	0	3	0	12
Honolulu, HI	2	0	0	0	0	0	0	0	1	0	0	3
Seattle, WA	0	1	0	0	0	0	0	2	2	1	0	6
San Jose, CA	0	0	0	0	0	0	0	0	0	3	0	3
Riverside, CA	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Pacific Region	68	4	20	0	5	0	0	37	8	20	0	162

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
SUBTOTAL, CUSTOMS OPERATIONS	332	49	172	14	20	27	0	101	35	109	1	860
Other Positions	10	0	14	0	32	4	46	20	4	60	37	227
TOTAL CUSTOMS OPERATIONS	342	49	186	14	52	31	46	121	39	169	38	1,087

Note: Regional cities include some positions which have not yet been allocated by the regions to the districts.

NUMBERS OF ARRIVING PASSENGERS

Senator D'Amato: How many individuals carrying drugs do you estimate go undetected? How can we adequately target those people suspected of drug smuggling?

Commissioner von Raab: No one knows how many passengers go undetected, but based upon projections that we have developed, it is estimated that Customs interdicts approximately 9.6 percent of the amount of cocaine being smuggled and approximately 29 percent of the amount of marijuana being smuggled, the two substances for which we have the most complete statistics.

With this difference in mind, we estimate that approximately 210,000 individuals carrying drugs of the 310,223,000 persons arriving go undetected, with weights ranging from 1 gram to 100 pounds. This in no way minimizes the threat manifest in 310 million persons arriving - amounts as small as 1 pound of cocaine have disasterous ramifications when they reach consumers.

We intend to target these people by:

a. Improving intelligence and automatic data processing and targeting to provide for a broader range of "lookout" information and increasing query rates by the acquisition of Passport Readers.

b. Working closer with Customs agencies of other nations and airline information systems to increase pre-arrival information.

c. Using computer analysis to update localized/tactical intelligence to provide current trends/patterns of smugglers, availability of drugs, new routes, new methods, etc.

d. Increasing the use of canine units screening arriving conveyances and baggage to provide information indicating high-risk persons.

e. Rovers and behavior analysis.

f. Improved interaction of agencies on land border.

PASSPORT READER STATUS

Senator D'Amato: We are testing the latest generation of passport readers and the Department of State is issuing machine readable passports and is considering the issuance of machine readable visas.

When is it expected that this program will be implemented?

Commissioner von Raab: Customs began installing the latest generation of passport readers in October of 1987. 650 units have been acquired and will be installed at all major airports in the United States, along with our preclearance locations in Canada, Bermuda, and the Bahamas. Installation is scheduled to be completed at all locations by the end of March 1988.

We are currently in the process of modifying our passport readers, so they are capable of reading the machine readable visas the Department of State will be issuing, along with the ADIT (Alien Documentation Identification and Telecommunication) registration cards the Immigration and Naturalization Service issues to resident aliens.

The passport readers help facilitate the processing of individuals through our TECS lookout database, and strengthens enforcement capability by incorporating security features that will detect tampered passports, visas, and ADIT cards.

CANINE ENFORCEMENT PROGRAM

Senator D'Amato: How many dogs are in the Canine Enforcement Program? How many more dogs are expected to join the ranks?

Commissioner von Raab: The Canine Enforcement Program currently consists of 171 positions at 37 ports of entry. We are currently assessing the need for additional Canine Enforcement Teams nationwide.

Senator D'Amato: How does Customs deal with the problem of overwhelming fuel odors at airports and shipyards interferring with the dog's sense of smell?

Commissioner von Raab: During the 18 years the Canine Enforcement Program has been in existence, we have not encountered any problems with fuel odors at airports or shipyards interferring with the dog's detection capability.

INTERNAL CONSPIRACIES

Senator D'Amato: How prevalent a problem are "internal conspiracies?"

Commissioner von Raab: We believe that the internal conspiracy problem is widespread throughout the nation and involves both the passenger and cargo environment. It is probably the most sophisticated of operations.

Since these narcotics smuggling groups are very well organized; for example, the Eastern Air Lines organization of a few years ago, actually used structurally modified aircraft to facilitate smuggling, it is impossible to identify each and every group.

The best indication of this activity is the record of commercial conveyance seizures for the period December 1986 to date. Narcotics seizures which result in the seizure of a commercial conveyance usually involve multiple occurrences, unmanifested cargo and crew involvement. From December 1986 to date, seizure results are as follows:

Marijuana, 7 commercial conveyance seizures, 14,287 pounds. Cocaine, 1,538 pounds, 7 commercial conveyance seizures. Heroin, 3 incidents, 47.4 pounds. These seizures resulted in excess of $159,636,800 in penalties.

SMALL BOAT REPORTING REQUIREMENTS

Senator D'Amato: What penalties would be given to a small boat that fails to report arrival to Customs?

Commissioner von Raab: The Anti-Drug Abuse Act of 1986 increased civil and criminal penalties for private vessels which do not report their arrival to Customs from a foreign port or place.

Civil Penalties: The master or person in charge of any vessel who fails to report arrival as required under Part 4 of the Customs Regulations is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation. Any vessel used in connection with any violation is subject to seizure and forfeiture.

Additional Civil Penalty: If any merchandise, other than sea stores, is imported or brought into the United States aboard a vessel which has failed to report arrival as prescribed in Part 4, the master or person in charge of the vessel shall be liable for a civil penalty equal to the value of the merchandise, and the merchandise may be seized and forfeited, unless properly entered by the importer or consignee.

Criminal Penalties: In addition to the civil penalties prescribed above, the master or person in charge of any vessel who intentionally fails to report arrival as required in Part 4 is liable, upon conviction, for a fine of not more than $2,000 or imprisonment for 1 year, or both. If the vessel is found to have or to have had, on board any merchandise the importation of which is prohibited, such individual is liable for an additional fine of not more than $10,000 or imprisonment for not more than 5 years, or both.

CONTRABAND ENFORCEMENT TEAMS (CET)

Senator D'Amato: What proportion of the total amount of narcotics seized was attributable to the CET program?

Commissioner von Raab: Percent of CET narcotics seizures from all Customs seizures was as follows:

Pounds Narcotics - FY 87

	All Customs	CET	% CET
Cocaine	87,898	32,600	37
Heroin	639	364	57
Hashish	1,073	494	46
Marijuana	1,701,149	131,992	8

Contraband Enforcement Teams account for less than 10 percent of Inspection and Control manpower resources and requires no special operating budget.

Senator D'Amato: How many foreign nations have participated in Customs training programs for CET.

Commissioner von Raab: Contraband enforcement training is conducted as a corollary to the overseas enforcement course. The teams are instructed in the best methods for identifying high-risk passengers and shipments of cargo. The program is generally given in three phases: Phase I involves bringing several officers to the U.S.; Phase II involves a short course in country; Phase III involves sending a U.S. officer to assist in program implementation.

Schedule for 88

CET (Phase I, II, III)	Jamaica	5/16-5/20; 6/6-6/14; 6/15-6/30
CET (Phase I, II, III)	Pakistan	4/10-4/15; 6/12-6/21; 6/22-7/22

1. Narcotics Control Program 86-87

    a. Jamaica
       CET - April/May 1987; Seaport
    b. Netherland Antilles   August 1987
    c. Anguilla   September 1986

d. Barbados August 1987; Regional

Caribbean Regional program included: Barbados; Aruba; Suriname; Guyana; Antigua; St. Lucia; St. Vincent and the Grenadines; Trinidad-Tobago; Dominica; St. Kitts; British Virgin Islands; Montserrat; Turks and Caicos; Anguilla.

e. San Juan April 1986; Regional

Caribbean Regional program included: Belize; Jamaica; Netherland Antilles; Barbados; Guatemala; Honduras; Dominican Republic; Trinidad-Tobago; Haiti; Costa Rica; Uruguay.

SOUTHWEST BORDER

Senator D'Amato: In the Budget Justification, Salaries and Expenses, Page 14: "Because of threats against Inspectors along the Southwest border, some of which were carried out, nine ports were closed in February 1985 until a security plan could be successfully implemented to return these ports to normal. Seven of the nine ports returned to normal service." We would like to know what were those threats, which ones were carried out, and what happened to the other ports?

Commissioner von Raab: Confirmed intelligence information and/or direct threats were received of intended kidnappings of U.S. Customs Agents/Officers and a $20,000 bounty on Customs inspectors kidnapped or killed. Threats were also received by the Border Patrol and Immigration and Naturalization Service (INS).

Results of these threats are:

1. The February 1985 abduction and murder of DEA Special Agent Enrique Camarena Salazar, and Alfredo Zaval Avelar.
2. Shooting in Mexico, south of Brownsville, at the 26k Checkpoint - 7 Mexican Federal Police Officers murdered, 1 wounded, in March 1985.
3. Shooting incidents regarding U.S. Customs Officers in March (2), April and August of 1985; January 1986; October of 1986 (2) all at different border ports. In one instance three inspectors were wounded and a suspect was killed by return Customs fire.
4. Shooting incidents involving U.S. Border Patrol Officers in March and December of 1985; January, February, and May 1986.

5. Shooting incident in October 1985 and wounding of Border Patrol Agent one mile southeast of the Port of Entry Ysleta, Texas (suspect was also wounded).

6. Assaults against Customs Officers in February, March, July, September and November (3) of 1986; February and November of 1987.

7. The February 1986 shooting death of Customs Patrol Officer Glen Miles, near Sells, Arizona.

8. Bomb threat received at Calexico, Ca., closing port.

9. The August 1986 abduction and torture of DEA Special Agent Victor Cortez, Jr. in Mexico. SA Cortez was returned to the U.S. alive.

10. The December 1986 shooting death of DEA Special Agent William Ramus, in Pharr, Texas.

11. Numerous incidents of seizures and/or arrests involving weapons.

12. An explosive device was planted near the U.S. Embassy in Mexico City.

13. There is an increased tendency for Mexican and Mexican-American gangs to encourage internal gang warfare near the border crossing points.

14. Also, there is a tendency for rival political forces to demonstrate and riot against the ruling PRI party near border crossing points over extended periods of time. These demonstrations have included take-overs of city hall, burning and looting of vehicles, shots being fired, and explosions.

Due to the remote locations, small workloads and difficulty of providing good security measures for inspectional personnel, the Ports of Amistad Dam and Los Ebanos were not reopened by the Customs Service. These ports were, however, reopened in April 1985 by INS and are currently staffed by them.

CONTAINER STRATEGY

Senator D'Amato: I understand that large amounts of narcotics are entering the United States concealed in commercial containers. What is the Customs Service doing to combat this very serious threat?

Commissioner von Raab: The Customs Service processes approximately 7.8 million containers entering the United States; 3.4 million vessel containers and 4.5 million land border trucks. Of this, 164,000 containers, 3 percent, were completely devanned by Customs for enforcement purposes.

It is a national Customs goal to increase the number of intensive container inspections from 3 to 5 percent, but the problem of examining containerized cargo is complex and sophisticated. Because thorough examinations are extremely time-consuming and labor intensive, it is essential that this be done intelligently and selectively. Customs must assure compliance with trade laws and regulations, while simultaneously facilitating the expeditious flow of legitimate cargo.

The key to our enforcement is the proper targeting of suspect shipments and quality examinations; not just the devanning of all containers. Customs will continue to utilize the Automated Commercial System (ACS), Contraband Enforcement Teams (CET), Manifest Review Units (MRU), and Centralized Examinations Stations (CES).

To date our Container Strategy Program has resulted in the discovery and seizure of approximately 39,214 pounds of cocaine and 164,652 pounds of cannabis. Seizures in containers FY 86 versus FY 87 reflects a 300 percent increase.

Senator D'Amato: When the Customs Service instituted measures to conduct intensified inspections, delays occurred on legitimate import/export cargo shipments, as well as passengers. What has the Customs Service done to reduce these delays?

Commissioner von Raab: We have a commitment to programs which embrace the latest technologies in communications and automation. We are looking closely at every process and procedure and examining new ways to improve efficiency.

In the area of cargo processing, we have already made tremendous progress. We have asked for and received the cooperation of the importing community and the carriers, and this cooperation has produced results. The service-wide implementation of automated cargo processing now provides more expeditious release of cargo than ever before.

One of our programs, the Automated Manifest System (AMS), provides carriers with the ability to electronically transmit manifest data to the Customs Service which facilitates the advance processing and disposition of the cargo, so that upon arrival, cargo dwell time on the docks is substantially reduced. AMS is presently available in a vessel environment, and programming is under way for the cargo shipments arriving by air.

Another system that is part of ACS, the Automated Broker Interface (ABI), was developed to provide a means for customhouse brokers to electronically submit entry data to Customs for processing. This capability substantially cuts down on the errors associated with entry processing normally found in a nonautomated environment. The ABI broker, in return, receives advanced tentative release messages from the Customs computer, as well as on-line tariff information and currency conversion rates. Eventually, we hope to provide these automated brokers with the ability to file entries and pay duties that accrue in a completely electronic medium, at which time we will be truly "paperless."

We have also directed our attention towards the efficient movement of international passengers. Customs is concentrating on highly selective inspectional techniques. We are examining less than 5 percent of the arriving passengers; however, we have a requirement to screen all arriving passengers against our computer lookout data base. There is a growing trend in the technology of passports and visas which will allow us to automate the screening of passengers against our data base. I believe the most efficient and time-saving method of doing this is prior to arrival in the United States. I am currently proposing to the airlines that machine readers be used as part of the overseas departure procedures to collect the passenger information we need to effectively process international arriving passengers.

USE OF CHEMICALS IN DRUG DETECTION

Senator D'Amato: How will specialized chemicals be used to make narcotics easier to detect?

Commissioner von Raab: We currently are field testing a chemical product that has been proven useful to Customs for the field identification of marijuana and cocaine. The products, Cannabispray and cocaine spray are dispensed from spray cans onto objects suspected to have come into contact with the indicated drugs. The chemicals in the spray cans react almost exclusively to the residues of the drugs, turning red in the presence of marijuana and blue in the presence of cocaine. The usefulness of the sprays has been verified in a number of applications, and seizures of boats and vehicles have been made on the basis of the sprays and confirming laboratory analysis. The following applications for the sprays by U.S. Customs may be noted:

- Decks and compartments of suspect boats

- The clothes and hands of suspects

- Cargo area of private aircraft

- Vehicle compartments

Future efforts will consider improvements in these techniques to expand the applications and the detection targets and to improve the utilization of the chemicals.

TARGETING OF SUSPECT IMPORTERS AND PASSENGERS

Senator D'Amato: In the FY 1988 Budget Justification for the U.S. Customs Service the following statement was made: "Efforts will be directed to better intelligence gathering for accurate identification and further targeting of suspect importers or passengers." What specific techniques will be used to increase your intelligence efforts?

Commissioner von Raab: Suspect importers are targeted through the use of the Automated Commercial System (ACS). This system, with its various modules (Cargo Selectivity, Automated Manifest System, Fines and Penalties, and Entry Summary Selectivity) provide Customs with an accurate method of analyzing the complete practices, trends, and history of importers. Targets in this system are developed through analysis of the importer and collection of intelligence information. Once developed, these targets are made into cargo selectivity criteria and holds/alerts are created in the Automated Manifest System.

In FY 1988, we are dedicating ourselves to increasing the flow of information between our Office of Intelligence and our Operational Analysis Staffs (OAS). OAS creates, develops, and maintains targets in ACS; the Office of Intelligence works to gather information, analyze trends, and disseminate enforcement targets.

We have developed training courses to cross-train these two offices, and have established a new analysis unit in the El Paso Intelligence Center (EPIC). This new office in EPIC is made up of intelligence analysts and operational enforcement analysts, and is specifically tasked with developing high-risk narcotics criteria in ACS. Targets will be gleaned from specific narcotics information available through EPIC users such as DEA.

This program has resulted in an increased number of enforcement targets for both passenger and cargo processing, and has led to the largest seizure of cocaine made by a Federal agency. This referenced seizure totaled 8,699 pounds of cocaine, which was discovered concealed in two containers of wooden furniture parts. The seizure resulted from information gathered by our Office of Intelligence and analyzed by OAS for the purpose of creating an alert in ACS cargo selectivity.

O AND M

Senator D'Amato: The budget justification for operations and maintenance on page 4 states that $15,881,000 will be non-recurring expenses from the C3I program, Mini-FLIRs program, and Bahamas Aerostat. Could you please explain what these non-recurring costs are in more detail?

Commissioner von Raab: Listed below is a breakout of non-recurring expenses from the FY1988 budget.

Program	$ in millions
C3I development costs	$10.0
Mini - FLIRs	1.05
Bahamas Aerostat	4.831
TOTAL	$15.881

BAHAMAS

Senator D'Amato: Operation Blue Lightning has achieved excellent results against smugglers attempting to smuggle from the Bahamas and we believe long-term disruption has been achieved against this smuggling mode. In what way has long-term disruption been achieved?

Commissioner von Raab: Enforcement actions by the U.S Bahamas Drug Interdiction Task Force in Gun Cay have driven fast boat traffickers out of the Bimini chain, further out into the Bahamas. A 50 mile trip is no longer available to the smuggler. They now must travel 150 miles, increasing their exposure and thus their chances of being apprehended. Operation BANDIT, which began on September 2, 1986, has been very successful and is essential to drug interdiction efforts in the Bahamas. The presence of BANDIT personnel at Homestead Air Force Base, Florida is widely known by the smuggling community, and as such their presence serves as a deterrent to would-be airborne smugglers in the northern Bahamas. Operation BAT, a joint DEA/DOD/Bahamian enforcement operation, is centered at the U.S. Embassy, Nassau, Bahamas. BAT is supported by U.S. Customs/DOD detection resources (aerostats) based in the Bahamas and South Florida. Currently, BAT is operating apprehension helicopters from Nassau, Georgetown, and Grand Bahama Island. The helicopters are crewed by U.S. Coast Guard, DEA and Royal Bahamas Police officers. As a result of the cooperative U.S. Government/Bahamian efforts, BAT achieved the following seizure results:

OPERATION BAT

Commodity	FY 1987	FY 1988(10/1/87-12/31/87)
Cocaine	17,719 Pounds	7,289 Pounds
Marijuana	258,070 Pounds	51,611 Pounds
Aircraft	24 Each	9 Each
Vessels	24 Each	6 Each
Motor Vehicles	3 Each	0
Weapons	3 Each	1
Arrests	173	49

Operation BANDIT achieved the following seizure results (all amounts given in pounds)

OPERATION BANDIT

Commodity	FY 1987	FY 1988(10/1/87-2/12/88)
Cocaine	3,032	1,163
Marijuana	12,570	2,690
Aircraft	15	6
Vessels	5	0
Arrests	29	13

SOUTHWEST BORDER

Senator D'Amato: Operation Alliance, a joint federal drug enforcement initiative, continues along the Southwest Border to combat the dramatic increase in drug smuggling across this border. Customs has enhanced and strengthened its enforcement program in FY 1988. What did Customs do in FY 1988 to strengthen its program along the Mexican Border and what does Customs propose to do to enhance the program in FY 1989?

Commissioner von Raab: Customs has allocated and is recruiting 297 additional positions on the Southwest Border, in support of Alliance, in FY 1988. That is a total of 1,226 new positions added since FY 1986. Thirty-two Border Smuggling Groups have been established at border locations from Brownsville, Texas to San Diego, California. An aerostat was deployed at Fort Huachuca, Arizona to combat drug smugglers using general aviation. Five (5) more aerostats are scheduled for deployment by late 1988 and early 1989. A P-3 aircraft, modified with 360 degree radar, is to be delivered in late 1988. Six (6) marine radars are deployed along the Texas Gulf coast to detect maritime drug smugglers. Twelve (12) marine radars are scheduled to be fully operational by late March 1988. Twenty-six (26) vessels are deployed along the Southwest border to support Alliance enforcement operations. Fivehundred and twelve voice privacy radios have been loaned to state/local agencies to improve communications between Alliance participants. The Tactical Operations Center in Houston is adding a state/local radio network (with its own frequency pair) to handle the increased traffic from these agencies. Customs anti-drug programs are being presented to public groups on the Southwest Border to promote an all out effort, by all levels of our society, to fight drug smuggling. Two (2) Command, Control, Communications, and Intelligence Centers are scheduled to be operational by late 1988. State and Local Coordinating Committees, chaired by the state or local representative to the Joint Command Group, have been established in California, New Mexico and Arizona. Texas is presently being studied to determine if more than one (1) group will be needed. The Zero Tolerance Program proved very successful in the San Diego District for FY 1987 and FY 1988. An effort will be made to implement the Zero Tolerance Program across the entire Southwest Border. The Federal Law Enforcement Training Center will develop a training program for state and local officers on Title 19, Title 21, Title 1, Title 31 and asset removal procedures.

Customs will publish procedures for state and local utilization of the Customs sponsored state and local radio network. Joint Integrity Groups will be developed, with an FBI lead, to investigate alleged smuggling or narcotics violations by federal, state or local law enforcement officials. A National Vessel Search Program and CET Vessel Tracking System will be implemented to develop an active Interdiction Intelligence System to be included in Alliance along the Southwest coast. The Mobile Team Concept will be implemented, consisting of 7 Customs Inspectors from CET units and 2 Office of Enforcement personnel, by Distict and SAC offices on the Southwest Border to respond to the particular Customs Districts enforcement requirements.

COLOMBIA

Senator D'Amato: On December 30, 1987, officials of the Colombian Government released Jorge Luis Ochoa Vasquez, one of the kingpins of the narcotics trafficking organization called the Medellin Cartel. This raises a question whether the Colombian Government can effectively control narcotics traffickers. What is the Customs Service doing to interdict narcotics being carried on aircraft, vessels, or within commercial cargo arriving from Colombia?

Commissioner von Raab: On December 31, 1987, the United States Customs Service instituted measures to intensively inspect all persons, carriers, and cargo arriving in the United States from Colombia. All persons and products emanating from Colombia must be considered high-risk for narcotics purposes and must be subject to a higher level of scrutiny by Customs officials at U.S. ports of entry.

The types of actions initiated by the Customs Service include:

- ° 100 percent inspection of all persons arriving directly or indirectly, by aircraft or vessel from Colombia.
- ° Intensive inspections of commercial goods arriving in the United States, with concentration on the flower shipments and containerized cargo.
- ° Full search of aircraft and vessels arriving from Colombia.
- ° Scrutiny of exportations to Colombia to seize currency resulting from the proceeds of drug sales.

The results to date have proven to be successful. They include:

- ° 25 seizures of cocaine for 1,128 pounds.
- ° 2 seizures of marijuana for 20,040 pounds.
- ° 18 seizures of currency for $1,401,859.
- ° 41 arrests for narcotics or currency violations.
- ° 747 commercial cargo airline seized.

Senator D'Amato: What additional sanctions have you considered in addition to your present policy?

Commissioner von Raab: Customs does not consider our program of intensified examination of goods and passengers from Colombia to be sanctions. At the time of the release of Jorge Ochoa, Customs consulted with the State Department and other concerned federal agencies. It was agreed that the release of Ochoa was indicative of a higher level of narcotics threat due to an erosion of appropriate controls by the Colombian Government, and that increased vigilance by Customs regarding Colombia would be warranted.

Customs is not at present contemplating any further actions directed at Colombia specifically. In the past, we have suggested to the National Drug Policy Board a variety of additional measures which we feel would be effective in convincing other countries to heighten their cooperation with U.S. narcotics control efforts. Some of these are:

°Landing Rights

Deny and/or restrict access at landing rights airports.

°Air Worthiness Certificates

Recommend to the Department of Transportation revocation of air worthiness certificates.

°Tourist Advisory

Issue travel advisories to the travelling public that a particular country is unsafe and polluted with drugs.

°Visa Restriction

Set quotas on U.S. visas and/or tighten up on application requirements.

°Enforcement Operations

Initiate intensified, special enforcement operations focused on types of narcotics violations which could result in financial strain to foreign governments in terms of seizures of government-owned assets and increased penalties.

°Training/Technical Assistance

Most training and technical assistance provided to foreign governments is accomplished at 100 percent cost to the U.S. In instances where positive results/cooperation are not evident, a cost for continued training/assistance could be required. The assesment could either be partial or full payment of program costs and/or an agreement to furnish information required to assess the effectiveness of the training/assistance.

Senator D'Amato: What should we be insisting that the Colombian Government do to combat the Medellin cartel? Should we insist that the Colombian Government prosecute Ochoa, or extradite him to the United States?

Commissioner von Raab: I believe that if we are going to state unequivocally that Colombia is truly cooperative with U.S. efforts to combat the Medellin cartel, we would want to see a positive response in these key areas:

- Colombia must show it is willing and able to extradite both its own citizens (including major traffickers like Ochoa) and foreigners for commission of narcotics-related crimes.

- Colombia must take firm measures based on the direction of top government officials to root out corrupt practices by narcotics enforcement and judicial officials at all levels.

- Colombia must deploy its anti-narcotics personnel and equipment on a systematic basis, including the use of military resources, to ensure that the key members of Colombia's narcotics trafficking infrastructure are captured and held.

Senator D'Amato: How does Customs propose to deal with the continuing and increasing threat from the Colombian drug traffickers?

Commissioner von Raab: In order to deal with the increasing threat from Colombia, Customs is expanding its proven successful programs. Seven new NOMAD aircraft, utilizing sophisticated radar, will be brought on-line and will be dedicated to the detection of air and marine narcotics trafficking.

Due to the success of the Bahamian Initiative, Customs is attempting to initiate similar programs with other Caribbean island nations. Several meetings have been held with law enforcement officials of these nations and we have received positive responses from each of these governments.

In Puerto Rico, Customs is participating in the Puerto Rico Narcotics/Currency Task Force and FURA (United Forces for Rapid Action), which was created by the Governor of Puerto Rico to combat drug trafficking in the Caribbean.

U.S. Customs serves as the hub of the Caribbean Liason Program for the exchange of law enforcement information between Caribbean island nations.

Due to the success of Operation Sea Eagle in the tracking and interception of narcotics smuggling by private aircraft, a similar operation is being implemented in Puerto Rico and the U.S. Virgin Islands.

CERTIFICATION

Senator D'Amato: Very shortly we will be debating the issue of certification. I would ask you to comment now, and submit a fuller statement for the record, on the level of cooperation you get from the following countries:

1. Mexico
2. Panama
3. Bahamas
4. Colombia
5. Bolivia
6. Peru

Commissioner von Raab: In replying to this question, I wish to state again for the record that the President has expressed the policy of this Administration in the decisions he made on certification of these countries, and that the comments we present here should not be interpreted as in anyway taking exception to these decisions. We can submit the following information on the countries in question:

Mexico has not been forthcoming with information on money laundering activities. Even though there is an existing Customs Mutual Assistance Agreement with Mexico, there has not been any official exchange of financial information since 1982. Before 1982, there was a favorable interpretation of Mexican banking laws. A new Bank Secrecy Act has curtailed official exchange of financial information. The lack of Mexican enforcement efforts or cooperation on the border also greatly hinders our ability to arrest and prosecute those involved in money laundering. The general and endemic problem of corruption in many branches of Mexican law enforcement makes the successful interdiction of drugs by Mexico almost impossible, thereby dramatically increasing the amount of resources the U.S. is required to commit to the Southwest Border.

United States Customs Operation SABER is a continuing, multifaceted investigation which has resulted in the identification and prosecution of Mexican officials who aid and abet narcotics trafficking in the United States by providing official protection and support to criminal narcotics trafficking organizations in Mexico. The investigation has included intensive debriefing of reliable sources of information, historical conspiracy investigations, and a very successful undercover sting. To date, twenty present or former Mexican Government officials (army, police, and customs officers) have been arrested, indicted, or have been the subject of arrest warrants. Information gathered to date indicates significant levels of narcotics corruption on the part of Mexican officials.

As the recent indictment in Florida of General Noriega points out, the cooperation level of the Government of Panama and the Panama Defense Force has become totally suspect. Despite the limited instance of Panamanian assistance noted during the last year, we believe that General Noriega and the Panama Defense Force has cooperated only when it did not negatively impact on their own interests. Under the current regime in Panama, full cooperation with the United States on narcotics matters is simply not possible. As part of the mounting U.S. efforts to force General Noriega from office, U.S. Customs is intensively monitoring all movement of cargo and passengers between Panama and the United States.

The U.S. Customs Service's Operation Bandit covers the northern Bahamas from our Homestead Air Force Base Operations Center in south Florida. Bahamian Strike Force personnel are stationed on site. When suspect smuggling targets are identified, United States helicopters transport Strike Force officials to the locations where the Bahamians take appropriate law enforcement action.

By the end of 1987, joint fastboat operations instituted that year between United States Customs and the Royal Bahamian Defense Force in the Bimini region had succeeded in depriving maritime trafficking of a strategic staging area. Customs boats were deployed to the Gun Cay area, where Bahamian enforcement personnel were already stationed. Up to March 1988, Customs has contributed substantial funding to upgrade the Gun Cay site. Altough the Bahamian Government has its own fastboats at the site, the additional assets provided by Customs have greatly enhanced the ability of Bahamian officials to enforce their laws against traffickers in the region. Customs also plans to assist in the maintenance of the Bahamian boats.

United States Customs continues to receive disturbing reports on allegations of high-level corruption in the Bahamian Government; we will continue to investigate vigorously narcotics-related violations which come under our authority, and we will not hesitate to follow up on leads which allege linkages to high officials. At the same time, we remain pleased with the excellent results which can be attributed to the cooperation of the Bahamas on hot pursuit of violators and gathering of tactical intelligence.

A United States Customs initiative of enhanced inspections of cargo and passengers from Colombia was instituted December 31, 1987, after the release of Jorge Ochoa. Customs believes that Ochoa's release is indicative of the fact that the Colombian government has little control over the narcotics situation. Statistics gathered by Customs during FY 1987 and FY 1988 point to significant seizures of cocaine found in containers arriving at United States ports, about 20 tons to date. Although the foreign port of lading varies, the cocaine's actual origin is believed to be Colombia in the great majority of cases. Customs has deployed expert survey teams to Colombia for reviews of airport security, container control, flower farms and commercial carrier operations. Many reasonable recommendations and problem solutions have been offered, but responses by Colombian authorities have been much less than what Customs has proposed.

Our experience at Customs has been that Colombian authorities have been slow at facing up to hard reality. As an example, only when faced with the prospect of forfeiture of carriers and severe monetary penalties have they come around to instituting better security procedures to keep drugs from being shipped to the United States in commercial cargo. The Government of Colombia needs to be brought to the realization that if they want to help us, and more to the point, save themselves, they must do more.

Bolovia and Peru, although a concern, have not been the origin of significant quantity narcotic seizures by our inspectors. To date, only small seizures of cocaine (less than 1,000 pounds) have been discovered in air cargo shipments and even smaller amounts carried by passengers into the United States from these countries. In comparison to their South American neighbors, these two countries are more of a threat to us through their production of coca, rather than its direct shipment to the United States. This trend is slowly changing and we will need to continue to monitor this development.

Customs has recently carried out basic narcotics interdiction training for Customs and other narcotics enforcement officers in Colombia, Bolovia, and Peru. These courses are part of a continuing program of overseas training which is funded by the State Department, Bureau for International Narcotics Matters.

QUESTIONS SUBMITTED BY SENATOR MARK O. HATFIELD

UNIFORM CARGO PROCESSING

Senator Hatfield: Are you familiar with the charge that importers who use the Columbia-Snake Customs District state that there is no uniform enforcement of Customs Regulations on the West Coast? Please cite examples of where and when such claims have been made.

Commissioner von Raab: The Columbia-Snake River District is unaware of any lack of uniformity in procedures or interpretation of policies or laws. Because of differences in volumes and because Customs often enforces on a random selection basis, e.g., cargo selectivity and by-pass, there is always the possibility of a lack of uniformity in treatment of those nonselected shipments. The dissemination of information also imposes a problem relative to the time that uniform classification and valuation can be imposed.

This District is also aware of charges on nonuniformity of Customs Treatment among districts. However, two audits, one preliminary audit by the General Accounting Office in August 1987, at the request of Congressman Les AuCoin (Code 26480), and one done under the auspices of the Western States Coalition for Effectivess U.S. Customs Service in the fall of 1986, were unable to cite any actual examples of nonuniformity, except processing time.

CLASSIFICATION UNIFORMITY

Senator Hatfield: Is there a mechanism in place to ensure that customs classifications are applied uniformly in a region?

Commissioner von Raab: Yes, Customs has procedures in place to ensure that customs classifications are applied uniformly not only regionally but nationally.

This mechanism is known as the Customs Information Exchange System (CIES). This system provides for the exchange of information concerning classification, value, admissibility and statistical verification. This is accomplished via a standard Customs form that generally originates with a Field Import Specialist and is sent to the National Import Specialist for review, comment and national dissemination.

We have studied the CIE system as it exists and have determined that it has become too slow and cumbersome due to the tremendous increase in number and variety of commercial importations. It is largely dependent on a manual process which sometimes results in duplication and untimeliness.

Realizing this, Customs, as part of a major initiative on Uniformity, has begun development of an automated CIE system. This system, when fully automated, will allow electronic communication between the field import specialist and the national import specialist for resolution of a variety of issues. It will also give to the field import specialist immediate access to all classification rulings, court decisions, countervailing duty and antidumping case status, quota status, importer, manufacturer, shipper, exporter, and broker histories. The first phase of this system, which will allow a quick classification query by the field import specialist, is already underway. This quick query will allow the field import specialist to either input or retrieve data on merchandise contained in a shipment and therefore enhance uniform treatment of that merchandise, whether it is entered in El Paso, Texas;

Pembina, North Dakota; Miami, Florida; or Seattle; Washington.

CLASSIFICATION DELAYS

Senator Hatfield: Do you plan to take any action to alleviate delays brought on by the apparent lack of uniformity of classifications?

Commissioner von Raab: Yes, we recognize the problem and are continuing to take corrective measures to resolve it. New programs such as the Automated Customs Information Exchange System (CIES) and Quality Assurance are under development to address all aspects of Customs Commercial Operations affecting the timeliness of classification and the release of merchandise. The catalyst for classsification uniformity is the automation of our existing CIE procedures. Additionally we have established a Quality Assurance Program which is an integrated program to oversee and ensure effectiveness of Customs operations via audits and reviews as well as better monitor Import Specialists activities. A special quality control team will also be formed to perform thorough quality reviews of randomly chosen commercial transactions throughout Customs and of particularly sensitive or problem areas.

Further integration of Import Specialist functions through enhanced automated capabilities will also minimize delays and allow for a higher level of uniformity in the treatment of commercial importations.

Be assured that the Customs Service is committed to providing the importing community with consistent, accurate and timely commodity classifications which will eliminate port shopping and deal equitably with the importing community.

CARGO PROCESSING TIME FRAME

Senator Hatfield: On average, how long does it take to clear cargo for importation if no delays are encountered.

Commissioner von Raab: The average time required to clear cargo under a general examination is less than 2 hours. The average time required to clear cargo under an intensive examination is less than 2 days.

Senator Hatfield: If a classification question arises, what is the average time that elapses before cargo clears Customs? Is it true that some appeals can take years to resolve?

Commissioner von Raab: First, let me explain that merchandise classification and cargo clearance are not necessarily synonymous and normally a classification determination has little impact on cargo release.

Although merchandise is ultimately classified for duty in accordance with the Tariff Schedules of the United States, cargo release is based on an advisory classification supplied for entry purposes. Unless Customs has a strong suspicion of fraud, a binding classification is not normally required for cargo release. Final classification determination is made subsequent to release of the merchandise and classification disagreements are resolved at that time.

The average time that elapses before cargo clears Customs varies with the degree of examination. A shipment subject to a general examination would take less than 2 hours while a shipment subject to an intensive examination would be released in less than 2 days. Those time limits would begin with proper presentation of entry documents to Customs.

Classification appeals or disagreements are resolved in a matter of weeks under normal circumstances. However, it is possible that complex issues that include, for instance, laboratory analysis, chemical formulas, difficult legal issues, etc., can take additional time, possibly months, to resolve.

Generally, and as a matter of policy appeals are handled by Customs under accelerated procedures.

PROPOSED LEGISLATION, S. 1926

Senator Hatfield: Senator Packwood has introduced legislation, S. 1926, which would expedite the appeals process arising from claims brought by importers who believe that there have been delays caused by inconsistent decisions by Customs officers within the same region. What would be the cost of implementing this proposed legislation?

Commissioner von Raab: The legislation, as proposed, would have significant impact on Customs, not limited to costs. Customs has reviewed the proposed legislation and discussed its intention and impact with Senator Packwood's staff.

To administer the legislation as written would necessitate major changes, and implementation and administrative costs would have to reflect those changes. A detailed cost analysis of the legislation is not available at this time due to the complexity of its impact on Customs existing structure.

Our primary concern with the legislation involves the decentralization of classification management which almost surely would contribute to a lack of uniformity in Customs classification decisions and actions. Customs has a procedure for Headquarters resolution of classification differences.

We are making significant efforts to reduce inconsistent classifications. Several programs centered on our Automated Commercial System (ACS) have recently been implemented or are under development. We are automating the existing Customs Information Exchange System, our central clearinghouse for classification and value issues and information. We have a Headquarters-directed Quality Assurance Program to review classification decisions. We will significantly expand our capability to provide binding classification decisions to the trade prior to importation of the merchandise. Customs has a newly-developed national data base of classification review criteria for entry summaries. Customs and the Bureau of Census have a joint project that will achieve the incorporation of entry summary TSUSA data from all Customs entries in ACS.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will recess until March 3 at 1 p.m., in this room, when we will receive the testimony on the 1989 budgets of the Federal Election Commission, the Bureau of Alcohol, Tobacco and Firearms, and the Federal Law Enforcement Training Center.

[Whereupon, at 11:17 a.m., Friday, February 26, the subcommittee was recessed, to reconvene at 1 p.m., Thursday, March 3.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1989

THURSDAY, MARCH 3, 1988

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 1 p.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini and Domenici.

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

STATEMENTS OF:

JOHN SIMPSON, DEPUTY ASSISTANT SECRETARY FOR ENFORCEMENT
STEPHEN E. HIGGINS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

ACCOMPANIED BY:

JILL E. KENT, ACTING ASSISTANT SECRETARY FOR MANAGEMENT
WILLIAM T. DRAKE, ASSOCIATE DIRECTOR, COMPLIANCE OPERATIONS
PHILLIP C. McGUIRE, ASSOCIATE DIRECTOR, LAW ENFORCEMENT
CHESTER C. BRYANT, COMPTROLLER
PAUL R. GENTILLE, FINANCIAL MANAGER

OPENING REMARKS

Senator DECONCINI. The subcommittee will come to order.

This afternoon, the Subcommittee on Treasury, Postal Service, and General Government is resuming its regular fiscal year 1989 budget hearings. Today, we will receive testimony from officials of the Bureau of Alcohol, Tobacco and Firearms, the Federal Law Enforcement Training Center, and the Federal Election Commission.

My assessment of the President's budget request for these three important agencies is that he deserves certainly a grade B for the Federal Election Commission, a grade D for the Federal Law Enforcement Training Center, and a grade D for the Bureau of Alcohol, Tobacco and Firearms. In short, it could have been worse, but it also could have been much better, especially as to the BATF, whose budget I reviewed very carefully. Nevertheless, we look forward to hearing from our fine group of witnesses this afternoon.

Mr. Stephen Higgins, Director of the Bureau of Alcohol, Tobacco and Firearms, will be introduced by Mr. John Simpson who is representing Mr. Frank Keating from the Treasury Department. I understand Mr. Higgins has a brief video presentation on the Jamaican gang problem that is plaguing this Nation's capital.

I did hear you this morning on public radio, Mr. Higgins, and I thought it was a very good statement that you made.

OPENING REMARKS BY MR. SIMPSON

Mr. SIMPSON. Mr. Chairman, I am John Simpson, and I am the Deputy Assistant Secretary of Treasury under Frank Keating.

As you know, Assistant Secretary Keating is the Treasury Officer responsible for oversight of the Bureau of Alcohol, Tobacco and Firearms. Mr. Keating is unable to be here today because of a death in his family.

With me today, as you have noted, are Mr. Steve Higgins, who is the Director of the Bureau of Alcohol, Tobacco and Firearms, and members of his staff whom he will introduce. Also with us today is Jill Kent, who is the Acting Assistant Secretary for Management at the Treasury Department.

PREPARED STATEMENT

Mr. Chairman, with your permission, I would like to have Mr. Keating's statement inserted in the record.

Senator DECONCINI. Without objection, it will appear in the record.

[The statement follows:]

STATEMENT OF FRANCIS A. KEATING II, ASSISTANT SECRETARY, ENFORCEMENT

I am pleased to appear before you today in support of the appropriation request of the Bureau of Alcohol, Tobacco and Firearms for Fiscal Year 1989. With me today are the Director, Stephen E. Higgins, key staff members, whom Mr. Higgins will introduce, and Jill E. Kent, Acting Assistant Secretary of the Treasury (Management).

The appropriation request for Fiscal Year 1989 is $218,503,000 and 3,235 staff years. ATF is a bureau with a critical law enforcement mission and an important tax collection and regulatory mission as well. ATF is charged with reducing the criminal misuse of firearms and explosives, including arson; ensuring the collection of all alcohol and tobacco tax revenues; and regulating the alcohol beverage industry through effective enforcement and administration of the Federal Alcohol Administration Act.

ATF's law enforcement programs are focused, in particular, on violent criminals who use firearms and explosives, including narcotics violators, terrorists, organized crime members and international and domestic illegal arms traffickers. In Fiscal Year 1987, 42 percent of ATF's firearms defendants had a previous felony conviction, 62 percent had prior arrest records, 40 percent were narcotic traffickers, and 21 percent were armed when arrested.

In Fiscal Year 1987, ATF recommended for prosecution 4,151 suspects in firearms cases, 778 suspects in explosive cases, and 538 suspects in arson cases. During Fiscal Year 1987, nearly 12 tons of explosives were taken illegally. Through ATF's investigative efforts, 10.5 tons of stolen explosives were recovered during this same period. ATF emphasizes the recovery of explosives because lost or stolen explosives have the potential for criminal misuse and use in terrorist activities.

The ATF continues to play a critical role in the President's Organized Crime Drug Enforcement Task Forces. Although ATF has no direct statutory jurisdiction over narcotics violations, they do have a unique opportunity to suppress narcotics-related crime through the enforcement of Federal firearms laws. Many narcotics traffickers use and traffic in firearms in furtherance of their illegal enterprises. ATF has agents assigned to all 13 Task Forces and in Fiscal Year 1987 participated in approximately 40 percent of all Organized Crime Drug Enforcement Task Force investigations.

In carrying out its law enforcement programs, ATF works closely with state and local agencies. ATF operates the National Firearms Tracing Center and maintains an expert civilian firearms technology staff for firearms tests, and classifications. During Fiscal Year 1987, the Center traced 34,527 firearms. Eighty percent of the traces were conducted on behalf of state or local law enforcement agencies who used the trace results as investigative leads to solve a variety of criminal violations. ATF also supports state and local agencies through its nationally accredited forensic laboratory. Chemists who are experts in bomb and arson evidence provide laboratory analysis and, if required, expert courtroom testimony.

As in previous Presidential Campaigns, ATF will again detail special agents to the Secret Service to assist in protection of candidates in Fiscal Years 1988 and 1989. Through the assistance of Treasury's enforcement bureaus, the Secret Service is relieved of the need to hire additional special agents every four years to meet the peak demands of Presidential campaigns. The ATF has done and continues to do a commendable job in this protective work.

In addition to its criminal jurisdiction, ATF is responsible for regulation of the alcohol, tobacco, firearms, and explosives industries and must ensure that all alcohol and tobacco excise taxes are collected. The taxes collected in Fiscal Year 1987 totalled $10.1 billion.

ATF has a strong revenue protection program. This program has recently been strengthened by ATF's assumption of responsibility from IRS for the depositing and accounting of ATF taxes. Because ATF employees are more familiar with taxation laws related to alcohol and tobacco collection, compliance matters and tax delinquencies are now being resolved more quickly and efficiently. If the return and remittance of a known bi-monthly excise taxpayer is filed late, ATF specialists can more quickly identify these late filings and initiate prompt corrective actions. Not only has this change strengthened the revenue protection program, but it also has resulted in savings of nearly one half million dollars.

ATF has the responsibility of regulating several industries with products that are sensitive in nature and subject to much public interest. Their philosophy has been to regulate only in those areas which need to be regulated and only to the extent necessary to achieve the intent of the law. Resources are efficiently used by concentrating regulatory and enforcement field work in those areas presenting the most jeopardy to revenue collections or posing the greatest threat to public safety.

An example of a non-revenue related concern is alcohol product integrity. During the past three years, the Bureau has addressed the problem of foreign wines contaminated with the hazardous substance diethylene glycol, or "DEG". As a result of sampling and product removal efforts, millions of wine bottles contaminated with DEG were recalled from the market and destroyed or returned to the foreign producers. When this problem was identified, ATF acted quickly to ensure that as little of the contaminated wine as possible reached the consumer.

Under the leadership of Director Higgins, ATF has carried out its total mission in an effective and efficient manner.

Mr. Chairman, this concludes my opening statement. I will now ask Director Higgins to provide you with his prepared statement, and we will then be pleased to respond to questions you or other members of the committee may have.

SUMMARY STATEMENT

Mr. SIMPSON. I would like to make some very brief remarks of my own, if that is agreeable to you.

Senator DECONCINI. Please proceed.

Mr. SIMPSON. As someone with a very long memory, I know and I am sure that you know, Mr. Chairman, that it has not always been a pleasure for Treasury officials to appear before a congressional committee on behalf of the ATF budget.

The Bureau of Alcohol, Tobacco and Firearms is a tax collector, it is a regulatory agency, and it is a law enforcement agency with a jurisdiction that encompasses some very sensitive areas. I think that it is a credit to Director Higgins and his staff that I am able to appear here today to discuss freely and with a lot of pride the accomplishments of ATF in each of the three areas of its mission.

As a tax collector, ATF has established a solid record of efficiency and economy. As an example, we have gone over the last decade from a system in which distilled spirits were kept physically under lock and key by Federal employees to one in which tax compliance is assured by modern auditing procedures. We have gone from a system in which the Internal Revenue Service processed thousands of paper checks for ATF to one in which ATF itself accounts for tax payments that are received by electronic funds transfer.

As a regulatory agency, ATF has distinguished itself for its effectiveness in protecting public safety and consumer interests, at the same time being sensitive to the legitimate concerns of the regulated industries. We are particularly proud, Mr. Chairman, of the job that ATF has done in screening alcoholic beverages for dangerous ingredients and in warning the public of the presence of such ingredients.

As a law enforcement agency, ATF has properly focused its efforts not on minor firearm violations, but on the truly dangerous criminal. ATF is in the forefront of the fighting against armed gangs who are engaged in drug trafficking and other organized crime activities.

I am particularly struck by the fact that over 40 percent of the persons ATF arrests have felony records and about one-fifth of them are actually armed at the time of their arrest.

We are very proud of the accomplishments of ATF in all three of its missions, and we hope the committee will support our budget request for ATF in fiscal year 1989.

Thank you, Mr. Chairman.

Senator DECONCINI. Mr. Simpson, thank you very much. Please express our regrets to Mr. Keating and his family. We appreciate your being here as well as Ms. Kent.

OPENING REMARKS BY STEPHEN E. HIGGINS

Mr. HIGGINS. Thank you, Mr. Chairman. We do appreciate this opportunity to appear before you.

In our view, the amounts requested for fiscal year 1989 are both reasonable and justifiable concerning the many competing demands that the Department has for scarce resources.

With me today, on my immediate left, is Mr. Phil McGuire who is the Associate Director for Law Enforcement, and on my right is Mr. William Drake who is the Associate Director for Compliance Operations, Chester Bryant, Comptroller, and Paul Gentille, Financial Manager. They will assist me in responding to questions that you and the other members of the committee may have.

From our past experience, we know that you and your colleagues have a lot of important questions to ask regarding our fiscal year 1989 budget request. Therefore, with your permission, Mr. Chairman, I would like to have my prepared statement inserted for the record.

Each year we try to highlight, via video, a specific problem or issue confronting the Bureau. This year, we would like to give you an overview of our efforts to date in combating the problem generated by the Jamaican organized crime figures, commonly referred to as Jamaican Posses.

I would like to point out that since this is our appropriations hearing, we take a lot of credit in the film, but I assure you it is a joint effort which involves Federal, State, and local governments because that is the most effective way to approach this problem.

Before showing the film, the only other thing that I would like to add is simply our sincere appreciation for the continued support this committee has provided us. We have used the resources that you have given us in a very responsive and responsible manner.

Mr. Chairman, with your permission, we would like to present the video tape on the Jamaican Posses. The tape has a bloody scene, however I don't believe this will create a terrible problem for anyone.

PREPARED STATEMENT

Senator DECONCINI. Thank you very much. Your full statement will appear in the record, and we may proceed.

[The statement follows:]

STATEMENT OF STEPHEN E. HIGGINS

Mr. Chairman and Members of the Subcommittee, it is a privilege to appear before you in support of the FY 1989 budget request for the Bureau of Alcohol, Tobacco and Firearms. Accompanying me are my colleagues: Mr. William Drake, Associate Director, Compliance Operations; Mr. Phillip McGuire, Associate Director, Law Enforcement; Mr. Chester Bryant, Comptroller; and Mr. Paul Gentille, Financial Manager.

FY 1989 Budget Summary

Our FY 1989 budget request is $218,503,000 and 3,235 staff years, which represents a net increase of $972,000 and a decrease of 216 staffyears compared with the FY 1988 appropriation. This request includes a funding enhancement of $1,206,000 for the continuation of the development of the Agency Consolidated Information System (ACIS) and an increase of $9,118,000 to maintain the current level of operations, offset by program and other reductions and nonrecurring costs totaling -$9,352,000. I would like to take this opportunity to report to you on several management initiatives as well as the status of various programs within the Bureau.

MANAGEMENT EFFICIENCIES

Administrative

In FY 1987, the Bureau continued to make strides in improving service, providing effective training, enhancing employee morale and complying with Reform 88 initiatives.

Noteworthy examples of these efforts were obtaining full accreditation of all ATF forensic laboratories and conducting the first Bomb Evidence Examination School for State and local crime laboratory personnel.

Progress was also made in the areas of automated data processing (ADP) and office automation. These two disciplines were combined under the auspices of the Agency Consolidated Information System (ACIS) project. The nucleus of this system is the IBM 4341, which was obtained in FY 1986 from the U.S.

Customs Service, and the IBM 4381 which was recently obtained through the competitive bid process. This hardware is scheduled for installation in April 1988 and will enable ATF to create a consolidated data network of mission-related ADP support, telecommunications, and office automation capabilities.

The goal of training all experienced managers in the Bureau's core management competencies has been achieved. During this effort, greater attention was placed on executive-level and first-line supervisory training. This year the focus is on the training needs of mid-level managers.

Substantial progress in improving employee health and morale has occurred. For example, the Health Improvement Task Force which was established in FY 1987 is reviewing fitness programs to determine which model may be appropriate for our Bureau-wide program. Similarly, ATF established a Health and Safety Committee to ensure the physical environment of ATF facilities is conducive to the well-being of employees. Internal policies on AIDS, smoking, and drug testing of all employees have been initiated, and efforts are underway to begin drug recognition training for supervisors.

In compliance with OMB Circular A-123, "Internal Control Systems," all material weaknesses for FY 1986 and prior years, were corrected during FY 1987. In addition, several internal audits and management reviews are scheduled for FY 1988. These reviews will be coordinated, and the audit findings and recommendations promptly evaluated and implemented. Security controls were enhanced by the installation of cryptographic equipment and the placement of exterior alarms on our headquarters building.

The Bureau has consistently utilized commercial sources in many areas of operation as part of ATF's commitment to perform in-house commercial functions in accordance with OMB Circular A-76. For example, both the employee assistance (counseling) program and the ACIS project involve the use of contractor support. Reductions in FTEs as a result of A-76 initiatives are not anticipated because the majority of the Bureau's functions are directly related to law enforcement and tax collection activities.

Efforts to reduce costs were made in the following areas:

-Office of Workmen's Compensation Claims Program (OWCP) claims were internally audited. Training has been provided to supervisors to familiarize them with the intent and use of the program.

-A survey is being conducted of all ATF facilities nationwide to determine whether internal space management practices remain in compliance with General Services Administration's (GSA) requirements.

-Self-contained field training modules have been developed and are being utilized to reduce the need for on-site instructors.

As part of the Reform 88 initiatives, plans are underway to design an automated standard general ledger by FY 1989. This year, an automated payment system was designed to satisfy selected requirements of the Prompt Payment Act. This system, referred to as the Warehouse Invoice Tracking System (WITS), automatically determines payment due dates, calculates interest penalties for late payments, calculates discount payments, and determines if the discount is advantageous. It will also track prompt payment statistics and provide on-line access for vendor information.

In regard to compliance with the Paperwork Reduction Act, public burden hours were reduced approximately 300,000 hours during FY 1987. Further reductions are anticipated in FY 1988.

Administrative management initiatives and past accomplishments will provide a sound foundation for future compliance with Reform 88 mandates.

Compliance Operations

Management improvements in Compliance Operations continue in the following areas:

- Using "lockboxes" and contractors to perform required activities;
- Consolidating functions that can be run more efficiently at one location;
- Identifying and acting on changes in industry and population trends;
- Automating high-volume operations; and
- Providing equipment and training to its employees so they can more effectively enforce Federal laws and regulations.

Effective July 1, 1987, ATF assumed responsibility from IRS for the depositing and accounting of ATF taxes. Savings to the government of $471,000 have been realized as a result of this effort. Because ATF employees are more familiar with taxation laws related to Bureau collections, compliance matters and tax delinquencies are now being resolved more quickly and efficiently. If the return and remittance of a known bi-monthly excise taxpayer is filed late, ATF specialists can more quickly identify these late filings and initiate prompt corrective action. Quick action is critical since a delinquent taxpayer may be having financial problems and the Government's interest must be protected in case of any bankruptcy proceedings.

Another improvement is the use of "lockboxes." When ATF assumed responsibility for tax deposits in July 1987, a lockbox bank was used to process returns and remittances for alcohol and tobacco taxes. The lockbox bank processes these documents and performs significant data-entry services for ATF. These lockbox activities have resulted in significant savings to ATF when compared to costs in prior years.

No problems have been encountered with the continued use of the lockbox arrangement for firearms and explosives application fees which has been in place for several years. Combined with consolidation benefits, firearms and explosives licenses are issued more expeditiously at savings exceeding $100,000 each year in processing costs.

All taxes collected by ATF are now being deposited into the U.S. Treasury by electronic funds transfer (EFT). In the case of the 190 largest excise taxpayers (annual payments greater than $5 million), EFT payments are initiated directly by the taxpayer. EFT payments from all other taxpayers are consolidated by ATF's various lockbox banks which then initiate daily EFT transactions. The use of EFT's has resulted in considerable savings to the government and is an excellent cash management tool. The situation involving the 190 largest excise taxpayers is particularly noteworthy since they paid a combined total of over $9.9 billion in FY 1987. By using EFT, the government had the use of these funds an average of three days earlier when compared to other methods of payment.

In addition to the use of lockboxes to handle fees and taxes, ATF has contracted with the excise tax lockbox bank to perform several activities related to special occupational taxes. These include mailing out special tax renewal notices to more than 400,000 special occupational taxpayers, issuing stamps, and contacting non-filers. The use of contractor lockbox banks takes advantage of their equipment and experience in handling high-volume operations.

ATF's use of the lockbox bank for special occupational tax mailings was advantageous when special occupational taxes were increased in December 1987. ATF was able to quickly amend its existing contract with the bank to send tax notices to all special taxpayers. This arrangement resulted in more efficient use of resources and allows ATF to meet the deadlines mandated by Congress.

When ATF assumed complete responsibility for tax collections in July, deposit and accounting functions from seven technical service locations were consolidated into one location. The decision to use only one location has resulted in: better and more efficient training of employees in new activities; minimized equipment purchases; simplified interactions with Internal Revenue Service, Financial Management Service and other agencies; and easier monitoring of these important new functions.

Recently, headquarters divisions were reorganized into units which more closely reflect program areas. As a result, a Tax Compliance Branch was established to enable headquarters specialists to better monitor tax compliance matters, including the new accounting and special tax unit in Cincinnati and the field tax compliance program. A Special Programs Branch was established to ensure the integrity of alcohol beverage products in the marketplace. This effort monitors product samplings and testing activities and coordinates field investigations of contaminants in alcohol beverages.

ATF regulates a very large number of licensees and permittees. For example, in 1987 the number of firearms and explosives businesses exceeded 272,000. To handle this volume of licensees, four of seven regional licensing functions were consolidated into one highly automated location in Atlanta, Georgia. This consolidation enabled ATF to more effectively respond to inquiries from law enforcement officials and more efficiently act upon license applications. Since this effort has been successful, further consolidation is planned for the remaining regional licensing sections.

ATF is in the second year of an agreement with the U.S. Customs Service whereby ATF inspectors perform examinations at customs bonded warehouses involved exclusively in the importation of alcoholic beverages. The agreement, which was initiated at the direction of Congress, was intended to improve the overall efficiency of Customs and ATF and to provide another tool to protect public safety. Experience with the project has disclosed certain issues that need further study and resolution. Issues to be resolved include

1) which agency will handle warehouses that switch back and forth between handling alcohol exclusively (which ATF would examine) and those which handle alcohol and other products; and 2) how to ensure consistent treatment between those warehouses which deal exclusively in alcohol and those which do not.

The Bureau estimates that there are approximately 300,000 delinquent special occupational taxpayers. ATF regional and area offices conducted a limited, but successful, delinquent tax-collection program which resulted in approximately $2 million in additional taxes being collected in FY 1987. ATF's tax accounting system is being made fully automated. When completed, more comprehensive efforts will be possible, and collections of delinquent special occupational taxes are expected to increase by $17 million based upon the new rate structure.

ATF processes tens of thousands of requests each year for alcohol beverage label approvals. Files are automated so that records are more efficiently maintained and information is more accessible. Automation of our label approval files has been particularly advantageous to both the industry and ATF because requests for label approval are processed at least twice as quickly as in the past. Industry representatives and members of the public also benefit because of speedy and accurate access to the label approval files. If there is a question of product integrity, labels can be researched quickly to ascertain which industry members distribute these products. Affected inventory can then be removed from shelves to protect public safety.

ATF has upgraded employee effectiveness by providing modern equipment and advanced training. Office computers have been obtained for all regional and area offices and upgrades and additional equipment will be provided as required. ATF has provided portable computers to auditors to better assist

Law Enforcement special agents during arson investigations. Advanced training occurs in areas such as: white collar crime, automated data processing (ADP), advanced examination techniques, interview techniques, and management.

Law Enforcement

Management improvements in the area of Law Enforcement include the co-location of the out-of-business records and the firearms tracing functions to provide more efficient and effective supervision and control.

LEGISLATIVE CHANGES

In December 1987, increased rates for current special occupational taxpayers engaged in firearms and alcohol industries were enacted under the Budget Reconciliation Act of FY 1987 (P.L. 100-203). An additional 17,000 taxpayers in the alcohol and tobacco industries which previously had not been paying this type of tax were also covered under this legislation.

The new rates are effective January 1, 1988, with payment due by April 1, 1988. Since these taxes are normally paid at the beginning of the special-tax year in July, ATF initiated a one-time, mid-year effort to collect from taxpayers at an estimated 415,000 locations. Additional revenue of approximately $35 million will be collected from this effort. Beginning July 1, 1988, an estimated $90 million will be collected annually.

LAW ENFORCEMENT PROGRAMS

The Bureau has realized important achievements in the fight against violent crime as a result of Law Enforcement (LE) activity. Firearms, explosives, and arson programs have been successful in combatting crime, especially in the areas of bombings, narcotics trafficking, arson-for-profit, terrorism, and other crimes of violence.

In FY 1987, the firearms program focused on apprehending previously convicted felons who perpetuate violence by illegally using firearms. These criminals are singularly responsible for more violent crimes than any other group, and their presence affects the way citizens live and businesses operate. ATF will continue to identify these criminals, vigorously investigate their crimes, and perfect criminal cases for prosecution.

The Bureau is also acutely aware of the alarming increase in domestic and international terrorist/hate groups in the United States. As a result, ATF special agents have initiated numerous investigations concerning the violent misuse of firearms and explosives by these groups. ATF's identification and exposure of these groups continues to heighten national awareness of their violent acts.

ATF is also committed to investigating and exposing corrupt profiteers who knowingly and willfully traffic in firearms, ammunition, and explosives to profit from all types of criminal activities.

Unscrupulous property owners who hire arsonists to burn their buildings for insurance monies have also been identified for intense investigation. Federal arson statutes include severe penalties in cases where death or injury occurs as a result of these fires. ATF's enforcement effort under these statutes will be paramount.

LE EXPLOSIVES PROGRAM

The vicious nature of criminal bombings evokes outrage and fear as evidenced by the public reaction to the abortion clinic bombings during 1987. Due to extensive damage caused by bombings and the threat to public safety, explosives investigations continue to be ATF's number one enforcement priority. During FY 1987, there were 1,126 reported bombings or attempted bombings that resulted in 36 deaths, 169 injuries, and over $9.2 million in property damage.

Furthermore, approximately 12 tons of explosives were illegally diverted in 129 reported thefts. Through ATF's investigative efforts and existing programs, 10.5 tons of previously reported stolen explosives were recovered in FY 1987. With the current availability of stolen explosives in the underground marketplace and the ready accessibility to the technology of bomb-making afforded by numerous publications in circulation, the potential for the criminal misuse of explosives is great.

ATF's stance in addressing its explosives enforcement mission is multi-faceted and dynamic in nature. ATF seeks to reduce the number of criminal bombings through active prosecution, assistance to State and local agency efforts to interdict illegal use of explosives, and removal of public hazards posed by the improper storage or use of explosives. The following is a brief overview of ATF's explosives programs currently in effect and areas of immediate future commitment.

Traditional Explosives Enforcement Cases

In FY 1987, ATF recommended a total of 352 defendants for prosecution for violations of Federal explosives laws. The following are some examples of the significant results achieved by ATF in this area.

> *Osceola, Arkansas. On January 12, 1987, a bombing of a private aircraft in Osceola, Arkansas, parked two spaces away from the mayor's aircraft caused an estimated $10,000 in damages. On February 8, 1987, the Osceola City Hall was the target of a burglary and arson that caused an estimated $300,000 in damages. On February 12, 1987, at 3:26 a.m., a bomb exploded inside a private aircraft owned by the mayor and caused damages estimated at approximately $15,000. Within the hour, the mayor, while departing his residence, observed an unexploded bomb under his vehicle. Examination of the bomb revealed that the fuse malfunctioned after being lighted. On February 16, 1987, four subjects were arrested for attempted murder in connection with the two aircraft bombings and one attempted bombing of the mayor's vehicle. The mayor was the target of the bombings; the principal defendant confessed that he hired the other suspects to commit the politically motivated bombings.*

> *New York, New York. On February 24, 1987, a fugitive surrendered to ATF agents at the Federal building in New York City. He was arrested and charged with the bombings and attempted bombings of four abortion clinics in New York City*

and the illegal transportation of dynamite in interstate commerce. On June 12, 1987, the defendant pled guilty to: three counts of superseding information before a Federal judge in the Southern Judicial District of New York; the attempted bombing of the Queen's Women's Medical Center on November 10, 1986; the bombing of the Eastern Women's Center on October 29, 1986; and transmitting a threat by telephone to the Eastern Women's Center on November 29, 1986.

A continuing ATF investigation disclosed that the defendant possessed additional dynamite which was not utilized in the bombings and attempted bombings. The defendant admitted that he planned to continue his campaign of bombing abortion clinics in the New York City area by utilizing homemade handgrenades which he intended to throw through the windows of unoccupied abortion clinics. After prolonged negotiations and assurances from the U.S. attorney's office that he would not be prosecuted for possession of the dynamite, the subject agreed to reveal its location. Based upon the defendant's admission, a search warrant was obtained in the Southern Judicial District of New York and executed at a rented storage facility in New York City, New York. The following inventory of dynamite and explosives was recovered: 78 sticks of unigel dynamite, several pounds of black powder, small quantities of flash powder, electrical and bridge wires, and 9 blasting caps.

Houston, Texas. On April 3, 1987, four persons were indicted by a Federal grand jury for conspiring to damage or destroy various AMC movie theaters in Texas and Louisiana. Between August 1985 and January 1986, members of the Projectionists Union committed at least 15 offenses involving the use of improvised, electronic incendiary devices against eight AMC theaters in the Houston area. Similar incidents were also directed at AMC theaters in Austin, Arlington, and Mesquite, Texas, and Bossier City, Louisiana. These actions were spawned by a labor dispute between the union and AMC. On April 6, the same four people were subsequently arrested by ATF agents and Houston police officers. The defendants were charged with possessing unregistered destructive devices and with conspiring to simultaneously destroy three theaters in the Houston area by using high explosives.

San Francisco, California. On May 13, 1987, a U.S. Marine corporal pled guilty to possession and transfer of destructive devices. On May 18, 1987, a San Francisco police officer pled guilty to possession of destructive devices and theft of Government property. Both pleas were in U.S. District Court, San Francisco, California. The two men were convicted for their roles in the theft of explosives from the U.S. Marine base at Camp Pendleton, California. On May 15, 1987, two additional San Francisco police officers were indicted by a Federal grand jury for possession of destructive devices. These officers were receiving military explosives stolen by the Marine corporal. Also identified in this distribution ring was the corporal's father, brother, and brother-in-law.

A separate conspiracy was discovered among San Francisco police officers to manufacture machineguns and silencers. Three additional police officers surrendered machineguns or silencers to ATF. A total of 11 suspects were considered for prosecution. Seized in this investigation were 51 blocks of C-4 high explosives, 35 handgrenades, 7 converted M-10 machineguns, 20 silencers, 25 blasting caps, 100 feet of detonating cord, and several thousand rounds of ammunition.

> *Chicago, Illinois. On June 23, 1987, in Cook County District Court, Chicago, Illinois, an individual pleaded guilty to violating firearms and explosives laws after an ATF investigation. The defendant was responsible for a series of 23 pipe bombings in the Midwest beginning on Memorial Day weekend in 1984. He randomly placed bombs in St. Cloud and Stillwater, Minnesota; La Crosse, Eau Claire, and Milwaukee, Wisconsin; Chicago, Illinois; and Mason City, Iowa. The suspect was arrested on an ATF complaint and warrant after one of his devices detonated while he was preparing it for placement. He was subsequently indicted by a Federal grand jury on 28 counts of violating the firearms and explosives laws. He was sentenced to ten years imprisonment, to be served concurrently with terms received from other State convictions and is currently incarcerated at the St. Peter State Hospital for Criminals in St. Peter, Minnesota.*
>
> *Carver County, Minnesota. A Minnesota woman and her twenty-month-old daughter were killed after a large quantity of high explosives detonated in the car in which they were sitting. ATF led an intensive investigation which showed that the husband intentionally detonated the explosives in order to collect $270,000 in life insurance. ATF's laboratory developed crucial evidence in the case that resulted in 200 exhibits being entered into evidence. The defendant was convicted by a State court jury on November 15, 1987, for two counts of manslaughter in the second degree. On December 1, 1987, Carver County, District Court (Minnesota) sentenced him to a total of six years imprisonment.*

ATF's timely, effective, and professional response to explosives incidents is the result of in-depth training of its agents and innovative programs established to support and enhance the field agents' investigative capabilities. Among these programs are:

> The Explosives Incident System (EXIS). The EXIS program maintains all pertinent information on every ATF bombing investigation and is capable of querying this information relative to trends, patterns, targets, components, and modus operandi. Information available through EXIS is routinely forwarded to the U.S. Secret Service, Federal Bureau of Investigation's Domestic Security and Terrorism Section, and U.S. Military investigative agencies.
>
> National Response Teams (NRT). Four NRT's are strategically located throughout the country and are capable of mobilizing a team of specialized investigators to the site of a major explosives/arson incident within twenty-four hours to conduct searches and follow-up investigations.
>
> Training. Each year, selected ATF special agents undergo training in methods of post-blast investigation, explosives handling and destruction, or explosives training instruction.

State/Local Explosives Training

As part of ATF's commitment to assisting State and local law enforcement, the Advanced Explosives Investigative Technique course presented at Glynco, Georgia, was initiated in 1982. To date, 618 State and local officers have attended this program of instruction. The course was originally developed in conjunction with the International Association of Bomb Technicians and Investigators and is considered state-of-the-art in post-blast investigation.

Public Safety of Explosives

ATF approaches the threat posed by the illegal and/or unsafe use of explosives through: the interdiction/disruption of illegal and/or unsafe practices; and, the education of the public on the hazards presented by explosives.

During FY 1987, ATF was actively involved in the investigation and analysis of illegal fireworks manufacturers, transporters, and distributors (M-80 Project). Explosives used in M-80 and M-100-type devices are highly sensitive and the potential for disaster is enormous when considering the type and quantities of powder used in the manufacturing process and the usual lack of quality control and safety precautions. During FY 1987, the Bureau, local law enforcement authorities and the media continued efforts to increase public awareness of the potential danger posed by illegal fireworks.

Abortion clinic bombings, along with other domestic and international criminal bombings, have heightened the public's perception of bomb threats. In recognition of the need by the general public for practical information on how to defend against and react to bombings and bomb threats, ATF has implemented awareness training presentations and prepared publications on the topic.

Since 1982, 65 abortion-related bombings/arsons or attempted bombings/arsons have been investigated by ATF.

Forty-one of these investigations have been successfully concluded. Twenty-two defendants have been convicted, 17 of whom were sentenced to serve prison terms ranging from 18 months to 30 years and 2 were given 5-year probated sentences. Nine people currently await trial.

1987 Initiatives to Combat Terrorism

ATF continued to develop the international explosives incident data base (I-EXIS) initiated in 1986 to address the increased threat posed by terrorism. EXIS collects information from all reported domestic explosives incidents into a data base. When completed, the I-EXIS program will contain information on foreign explosive incidents and be capable of making comparisons between international incidents or between international and domestic incidents.

In 1987, ATF established liaison with bomb data centers in Canada, Germany, Australia, and Israel, and is currently receiving technical information on explosives incidents from these countries. ATF also initiated the development of a standard format to be used by Interpol member nations in reporting foreign explosives incidents.

Arson Enforcement

While arson is a State and local enforcement responsibility, the national magnitude of the problem exceeds the capabilities of any one agency to effectively respond to the full range of arson crimes occurring within its jurisdictional area. ATF led the drive to coordinate enforcement efforts among Federal, State, and local sectors. In FY 1987, ATF continued to enhance its close liaison with Federal, State, and local law enforcement agencies committed to the fight against arson by responding to 494 incidents nationwide involving 139 deaths, 340 injuries and approximately $368 million in property damages. ATF recommended 166 cases and 382 defendants for prosecution from these incidents.

ATF focuses on selective enforcement by actively investigating only a small percentage of the total arsons committed throughout the country. Investigative criteria are based on: (1) the burned structure must affect interstate commerce in some way, thus ATF resources are directed toward complex arson-for-profit cases involving industrial or commercial property, and (2) the complexity of this financially-motivated crime indicates the possibility of other major felony crimes which may reach beyond state and national boundaries. These cases may involve organized crime, arson-for-profit rings, and white collar and violent criminals. The direction of ATF's investigative activity, along with its assistance to State and local authorities, is compatible with the overall Federal role required to combat the crime of arson.

In addition to the apprehension and prosecution of perpetrators, ATF estimates the insurance dollars saved that would not have occurred without arson investigative efforts. During FY 1987, the insurance industry could potentially have paid $24.6 million more for arson-related damages and passed this cost to the premium-paying public. Since 1979, these savings amounted to approximately $325 million.

ATF continued its assistance to State and local authorities through the services of four National Response Teams (NRT) located in the Midwest, Northeast, Southeast, and Western regions of the United States. Since their inception in 1979, these teams have responded to 173 incidents throughout the nation, 104 of which involved the crime of arson. These teams had a phenomenal 92 percent rate of determination as to the cause of the incident.

The arson task force, one of ATF's most successful strategies in combatting arson, combines the resources and expertise of ATF special agents, along with State/local arson investigators, to target the more complex crimes of arson. Task forces in Seattle, San Francisco, Los Angeles, Houston, Chicago, Boston, New York, Philadelphia, Pittsburgh, Kansas City, Atlanta, Detroit, Newark, Dallas, St. Paul, and St. Louis are fully operational. Utilizing maximum interagency investigative skills has proven vital in the swift identification and prosecution of persons responsible for perpetrating the crime of arson. The Bureau continually strives to perfect this effort by offering creative and innovative training programs as well as contributing educational support toward multi-agency cross-training. Since 1982, over 583 State and local police and fire service personnel have attended the Advanced Arson-for-Profit Investigative training course.

ATF, in conjunction with the Department of Justice's Bureau of Justice Assistance, initiated a series of seminars to educate State and Federal prosecutors on the crime of arson. These seminars acquaint the prosecutors with the cause and origin determination of a fire as well as the legal considerations for a successful prosecution and courtroom techniques. Sixty prosecutors attended two seminars given in FY 1987, and three seminars are scheduled for FY 1988.

ATF's Arson Enforcement Branch gave a seminar to 36 insurance claims supervisory personnel affiliated with nationally-known insurance companies to familiarize the insurance industry with ATF's arson task force policy. Another seminar is scheduled for FY 1988.

Arson Cases

The following is a sampling of ATF's work in the area of arson investigation and enforcement cases:

— *Ontario, California. On April 14, 1987, the Western Region National Response Team responded to an arson that caused $1.5 million in damages to a hotel recognized as a State historical* *site. An examination of the crime scene revealed that the fire started in a crawl space below a second floor hotel room from ignited combustibles soaked with charcoal lighter fluid.*

On April 17, 1987, ATF identified the arsonist, a local realty appraiser, who stated that the owner hired him to burn the hotel for $10,000 of the insurance settlement. The arsonist agreed to cooperate with the Government and was able to establish contact with the owner who made several admissions as to his involvement in the arson. Further investigation revealed that in February 1987, the owner acquired insurance on the building in the amount of $1.2 million and in March 1987, the city of Ontario ordered that a section of the hotel be closed and vacated due to existing building safety and fire code hazards. At the time of the fire, the owner was leasing a space in the building to operators of a Federally-funded program for the homeless.

In September 1987, the arsonist and owner were indicted and subsequently arrested on conspiracy, arson and mail fraud charges. In November 1987, a Federal grand jury returned a superseding indictment charging the owner with additional mail fraud.

Brooklyn, New York. On April 1, 1987, a Kings County, New York, Civil Court judge entered a plea of guilty to one count of Racketeer Influenced and Corrupt Organizations (RICO) resulting from a previous ATF arson investigation. The judge agreed to: resign his position as a judge on the New York State Civil Court and forego all pension rights; forfeit $150,000 as restitution to those insurance companies and other individuals who were defrauded by him during the operation of his real estate business; and, remain subject to a maximum term of imprisonment of 20 years. On November 12, 1987, the judge was sentenced to the terms of his plea agreement, including a term of eight years imprisonment and an additional fine of $25,000.

Baton Rouge, Louisiana. In late October 1985, ATF began an investigation into the October 27, 1985, arson of the River City Women's Clinic and the October 31, 1985, arson of the Delta Women's Clinic. An examination of both crime scenes revealed that entry to the buildings was made through rear windows. Gasoline was then distributed throughout the interior of the building and ignited.

On September 4, 1987, two subjects, having pled guilty to one count each of conspiracy to commit arson, were sentenced to two years in Federal prison. On September 18, 1987, a third person, an "anti-abortion activist" was sentenced to five years in Federal prison and ordered to pay $314,000 in restitution.

Arson Profiling

ATF has entered a new phase of investigation through the profiling of arson and bombing suspects. In October 1987, a special agent assigned to the Arson Enforcement Branch completed a ten-month fellowship program sponsored by the Behavioral Science Unit of the FBI in Quantico, Virginia. Because of ATF's leadership in the area of arson and explosives investigation, the Bureau was invited to participate in this relatively new area of profiling.

ATF, in conjunction with the FBI, is conducting a research project that involves interviewing convicted and incarcerated arsonists and bombers throughout the United States. Currently, 15 States have agreed to support this project by allowing interviews in their prison systems. Convicted individuals who agree to participate will be interviewed on details of their background and criminal activity. The information obtained will be valuable in preparing criminal personality assessments. All arson cases currently being submitted to the FBI's Behavioral Science Unit for profiling are being completed by ATF. Plans are also underway for interviewing those persons convicted of bombing and arson incidents directed against abortion-related facilities. This study will center on such areas as motivation, target selection, and personal background.

LE FIREARMS PROGRAM

ATF's Firearms Enforcement Program focuses on those crimes, criminals, or criminal organizations which pose the greatest threat to American society based on a consensus opinion of the criminal justice community. Accordingly, our Firearms Program is continually reprioritized and revised to ensure that the most serious firearms threats are addressed. The Firearms Program is divided into five major categories.

Dangerous and Special Offenders

The first category is Dangerous and Special Offenders/Organizations, focusing on habitually active and violent criminals. Greater emphasis is placed on persons and groups actively involved in drug trafficking and violent criminal activities. The Comprehensive Crime Control Act of 1984 enacted firearms statutes, particularly 18 U.S.C. 924(c) and 924(e), which have been extremely effective. Incorporated into the Gun Control Act as amended in 1986, these new statutes have been directed at apprehending organized crime figures, armed and major drug dealers and organizations, terrorists, members of violent extremist groups, violent criminal groups, and outlaw motorcycle gangs that illegally use or possess firearms.

The following are examples of ATF accomplishments in this area:

> *ATF has been involved in the investigation of a number of organized crime gangs. One of the most notable investigations concerns national law enforcement efforts aimed at Jamaican groups which call themselves "posses". Investigation into initial allegations of drug trafficking and related homicides disclosed that these gangs were organized and interrelated with their primary illegal involvement in the United States focusing around the wholesale and retail distribution of narcotics. Their propensity for violence, as documented in over 600 narcotics-related homicides during CY 1985, 1986, and the first half of 1987, and their proclivity towards firearms has made them subject to statutes enforced by ATF. On October 19 and 20, 1987, ATF coordinated a national arrest effort of Jamaican posse members in order to strike a combined blow to their illegal enterprises and to apprehend as many members as possible. The simultaneous arrests were necessary because these posses are very mobile, well organized, and adept at using false documents and identities.*
>
> *A total of 223 arrest warrants were secured to be executed as part of this operation and 155 Jamaican posse members were arrested and charged with various firearms violations including 18 U.S.C. 924(c) as well as other Federal, State, and local statutes. Approximately 75 percent of those posse members arrested were in the United States illegally. Additionally, 70 firearms, 30 pounds of narcotics, and 2 vehicles were confiscated. ATF continues its on-going investigations into the Jamaican posses and more arrests are anticipated during fiscal year 1988.*

While 924(c) provides for a mandatory sentence, the 924(e) statute provides for an enhanced sentencing of 15 years for any individual thrice convicted of a serious felony or serious drug trafficking crime and possession of a firearm. Prosecution of such a criminal under this section of law requires close coordination with State and local authorities. In 20 out of 22 district offices, Armed Career Criminal Task Forces exist which target and prosecute the felony offender.

The following are some examples of efforts in this area:

> *Seattle, Washington. In January 1987, an individual in Seattle, Washington, was captured by police in a robbery. The subject was armed when apprehended. His criminal record showed three convictions for burglary and robbery. In October 1987, that individual pled guilty and received a 15-year sentence.*
>
> *In December 1986, a five-time convicted felon for burglary was apprehended while attempting to commit another burglary and while in possession of a firearm. This individual pled guilty and was sentenced to 15 years imprisonment in November 1987.*

From April 1986 to September 1987, ATF's total convictions under 924(e) stand at 102 defendants receiving 1,591 years of imprisonment.

Criminal Trafficking

The second major category of the Firearms Program concerns criminal trafficking of all types of firearms. This area can be summarized as the identification, investigation, and apprehension of individuals or groups who provide firearms for the criminal element and demonstrate flagrant disregard for the law. Included are those persons who illegally deal in stolen firearms and are involved with burglary and fencing operations, and those who illegally traffic, manufacture, or convert machineguns and silencers. The following are some of our accomplishments in this area:

> *Detroit, Michigan. On May 12, 1987, a federally licensed firearms dealer (FFL) was sentenced to a term of 2 years imprisonment following a conviction in Federal Court for illegally dealing in firearms. The FFL was previously arrested as he delivered firearms with obliterated serial numbers to an ATF undercover agent. This investigation revealed that the FFL, aided by his brother (also a FFL in Florida), and a convicted felon "street dealer," supplied firearms to local criminals. The FFL utilized his firearms license to acquire volume amounts of firearms and made false entries into his firearms record books to cover up illegal sales. The FFL's brother, who used his Florida license to aid in the cover-up, and the unlicensed street dealer were also convicted of Federal firearms violations.*
>
> *Hammond, Indiana. On August 28, 1987, four members of a criminal organization specializing in the interstate trafficking of stolen firearms were sentenced to prison terms. These convictions resulted from an ATF investigation which documented that this group had trafficked in stolen firearms in excess of 177 times. ATF recovered 139 firearms stolen in Alabama by several members of this criminal organization. A related DEA narcotics investigation substantiated that many of the firearms were destined for delivery to a significant narcotics trafficker in the Chicago and Hammond areas who also trafficked in firearms to Mexico.*

Harrisburg, Pennsylvania. On October 16, 1987, a federally licensed firearms dealer (FFL) and a co-conspirator were convicted in a Federal jury trial of conspiracy to commit illegal interstate traffic in firearms. A third defendant, who was an interstate truck driver, had earlier pled guilty to his role in this case. These convictions resulted from an ATF undercover investigation lasting four months which proved that the three defendants conspired together to illegally distribute 171 handguns in New York City. One hundred and sixty of the handguns were obtained by the FFL in Pennsylvania, who staged a false burglary to cover the missing handguns which were then transported to New York for illegal sale. Six of the handguns have been recovered by law enforcement officials in New York from various crimes, involving a murder and narcotics trafficking.

International Traffic-in-Arms

The third major program deals with International Traffic-in-Arms (ITAR), the illicit movement of firearms into and out of the United States. The Bureau is dedicated to neutralizing the illicit movement of firearms. Firearms of U.S. origin are used in violent crimes throughout the world and are often found in the hands of terrorist and narco-traffickers. The Bureau's ITAR Program strives to improve and open communications with foreign governments to share firearms and explosives expertise. These liaison contacts prove useful to enforcement efforts and provide valuable data relating to the movement of firearms into and out of the United States.

During August and October 1987, ATF participated in and conducted two seminars for the Department of State, Anti-Terrorism Assistance Program, at locations in Manila, Philippines, and Bogota, Colombia. Four other countries are expected to be scheduled for calendar year 1988.

Since October 1, 1986, ATF perfected 150 criminal cases directed at those individuals involved in the illicit firearms traffic across U.S. borders. The following are some examples of efforts in this area:

California/Arizona. In August 1987, two Mexican nationals illegally in the United States, purchased a total of 95 AKS-type semiautomatic assault rifles from a Federal firearms dealer in California. The purchases were accomplished through the use of false identification and straw purchase techniques. Two suspects were arrested as they offloaded 70 of the purchased rifles. Another individual was arrested in Arizona as he attempted to smuggle 12 of the remaining rifles into Mexico.

Houston, Texas. In February 1987, ATF agents in Houston, Texas, arrested a convicted felon for the purchase of 26 handguns and a quantity of ammunition. The purchase was accomplished through the use of false identification. An investigation revealed that the firearms were destined for the Philippines.

Technical Assistance

The fourth Firearms Program area, technical assistance, involves testing and evaluating firearms, ammunition, and implements of war for proper classification under Federal law, and advising State, local, and other Federal agencies on the technical aspects of firearms. ATF also traces firearms to assist Federal, State, and local law enforcement authorities in their fight against crime and violence. In FY 1987, ATF processed 34,527 requests for firearms traces from various law enforcement agencies. Eighty percent of these traces were conducted on behalf of State or local law enforcement agencies who used the trace results as investigative leads to help solve a variety of criminal violations. The following are some examples of more recent traces:

Jacksonville, Florida. In March 1987, ATF conducted an urgent trace on behalf of the FBI, who was conducting a murder/kidnapping investigation involving the killing of a young mother and the kidnapping of her newborn baby. A search of the roadside leading away from the crime scene resulted in the recovery of the handgun used in the murder. The urgent, after-hours trace revealed that it had been purchased by a man living in a small town in Wisconsin. The licensed dealer who had sold the gun reported knowing the purchaser and further stated that the buyer had a grown daughter living near Jacksonville. The FBI, using the information gained from the trace, was able to identify and locate the female suspect and her boyfriend. Both subjects were arrested and the baby was found unharmed.

Yazoo City, Mississippi. In March 1987, an armed robbery and murder occurred at the business of a Federal firearms licensee. During the robbery, the gun store owner was shot and killed, and firearms were stolen. A suspect was subsequently located, and an urgent trace was initiated on the firearms which the suspect had in his possession. The trace, which was completed in just over an hour, confirmed that the firearms were stolen from the licensee at the time of the robbery/homicide.

Augusta, Georgia. In April 1987, a shooting occurred at a bus stop and an urgent trace was subsequently requested by the police. The firearms trace revealed that the weapon had been purchased that same month by an individual from Augusta. Upon receipt of the trace information, the purchaser was immediately interviewed by the local police who obtained a confession to the crime.

Lima, Ohio. During June 1987, an urgent trace was requested in reference to a homicide. The defendant, a juvenile, claimed that another person had shot the victim, and he had no information as to where the gun came from or to whom it belonged. The firearms trace revealed that the owner of the gun was the defendant's father. When confronted with the trace information, the defendant admitted that the gun had accidentally discharged and killed the victim.

Restoration of Firearms Privileges

The fifth and last area of the Firearms Program involves investigating applicants for restoration of firearms privileges. During FY 1987, ATF completed 1,209 of these investigations. Of those requiring a final decision by ATF, the Bureau restored firearms privileges to 313 qualified applicants and denied 214 applications.

LE ALCOHOL PROGRAM

The alcohol industry provides a multi-billion dollar tax revenue source to Federal, State, and local governments. Because of the tremendous amount of funds generated by this industry, it has historically been susceptible to organized or white collar criminal activity. The Bureau's efforts are directed toward protecting this revenue source from individuals who have demonstrated a disregard for the law. However, despite comprehensive efforts, a small number of criminals continue to infiltrate the industry and attempt to defraud the Government through evading excise taxes.

ATF has conducted investigations during recent years which have disclosed illegal payoffs, kickbacks, commercial bribery, hidden ownership, and other violations of the Federal Alcohol Administration (FAA) Act and the Internal Revenue Code (IRC). Additionally, ATF has conducted investigations, and assisted State investigations on illegal production of alcohol, or moonshine. This activity has subsided considerably due to economic factors and effective local enforcement efforts. During FY 1987, ATF seized 3 illegal stills, 3,338 gallons of mash, and 910 gallons of illegal liquor.

ATF conducts legal alcohol enforcement training courses concentrating on violations of ancillary Federal statutes, such as Racketeer Influenced and Corrupt Organization (RICO) Act, Hobbs Act, and mail fraud. Illicit alcohol enforcement training courses for State and local enforcement officials are also taught by ATF and concentrate on suspect methods of operation and investigative techniques.

LE TOBACCO PROGRAM

Public Law 95-575 was enacted on November 2, 1978, to eliminate racketeering in the sale and distribution of cigarettes. Since that time, ATF has provided the technical expertise and the training necessary to enable States to develop their own contraband cigarette programs. During that same timeframe, ATF also provided investigative assistance in complex, multijurisdictional tobacco tax frauds.

The Advisory Commission on Intergovernmental Relations conducted two studies, one in 1975 and the other in 1984, into the contraband cigarette problem. They concluded that since the enactment of Public Law 95-575, tax losses have dropped from 10 percent of the total revenue due States from their cigarette taxes to 5.4 percent. The majority of the 5.4 percent is from activities outside of the purview of the Contraband Cigarette Act. These include small bootlegging activities associated with military bases and Indian reservations.

ATF views contraband cigarette enforcement as primarily a State problem requiring a State solution. ATF's role is to: coordinate intelligence collection; provide assistance where the jurisdictional limits of a particular State have been exceeded; conduct training; and, provide laboratory support as needed.

It is ATF's stated objective to support a complete transfer of the responsibility for enforcement of tobacco statutes from Federal to State and local authorities. A program has been initiated for collecting intelligence on contraband cigarette trafficking from source States, and then providing that intelligence to the affected State agencies for their enforcement efforts.

Training is conducted in contraband cigarette enforcement for State and local officials. This training serves to enhance the abilities of the State to effectively address the contraband cigarette problem. ATF also assists States in an advisory capacity and makes ATF laboratory expertise in the detection of counterfeit tax indices available to them. Consequently, States have developed enforcement capabilities to address the current problem, and responsibility for the enforcement effort will be transferred to States during FY 1989.

LE ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PROGRAM

On October 14, 1982, President Reagan announced that twelve regional task forces would be created to implement a coordinated Federal effort against drug trafficking organizations. The task forces, designated as Organized Crime Drug Enforcement Task Forces (OCDETF), became fully operational during FY 1983. On October 1, 1984, the Florida Caribbean Task Force was added as the thirteenth task force.

During FY 1987, ATF agents assigned to the OCDETF Program initiated 595 investigations and submitted 351 criminal cases, recommending 574 individuals for prosecution. ATF also participated in 40 percent of all OCDETF investigations.

ATF efforts in the task force during FY 1989 will continue to be directed against violations of the Federal firearms and explosives laws committed by organized criminal groups whose principal income is derived from trafficking in illegal drugs.

The following cases exemplify some of the significant results achieved by the Bureau's OCDETF participation during Fiscal Years 1987 and 1988:

New York, New York. In October 1987, an investigation into illegal purchase, transportation, and distribution of over 700 firearms in the Harlem area of New York City culminated with the execution of search warrants, seizures of contraband and arrests of defendants. These firearms were used to arm Jamaican drug dealers or shipped to Jamaica in support of posse operations. Undercover purchases of cocaine from the target locations in Harlem were made and search warrants obtained. Warrants were executed and resulted in the arrest of 12 defendants and the seizure of 6 firearms. Additionally, approximately 1 kilogram of cocaine, 15 pounds of marijuana, $12,000 in U.S. currency, and drug paraphernalia were taken into custody.

San Francisco, California; Anchorage, Alaska. On November 10, 1987, search warrants and 12 arrest warrants were executed by ATF agents as part of a coordinated law enforcement task force on officers and members of the Hells Angels Motorcycle Club in the San Francisco Bay Area, including the arrest of national president Ralph "Sonny" Barger. Seized as a result of the warrants were 105 firearms (including 4 Title II weapons), explosives, over $3 million in cash and a large methamphetamine laboratory.

An additional 16 search warrants and 19 arrest warrants were simultaneously executed in Alaska, North Carolina, South Carolina, and Kentucky by ATF, FBI, and State and local agencies. The Alaska warrants resulted in the seizure of 86 firearms, including 2 silencers and 2 automatic weapons.

Chicago, Illinois. A joint OCDETF investigation targeting members of the El Rukn organization for violation of the Federal firearms and explosives laws, Racketeer Influenced and Corrupt Organization (RICO) and Continuing Criminal Enterprise statutes, culminated in November 1987, with a guilty verdict. Through cooperative efforts with the FBI, a case was developed charging five El Rukns with conspiracy and terrorist activities. The five were involved in negotiations with the Libyan government to perform terrorist activities in the United States in exchange for over $2 million dollars. Their trial ended on November 24, 1987, when the jury returned a guilty verdict on all five defendants. The Government will now concentrate on ATF's RICO case which is expected to go to trial in early 1988.

New Orleans, Louisiana. In May 1987, ATF assisted DEA and Customs in the surveillance of a shipment of approximately 15 tons of marijuana. Five suspects were arrested at the offload site on narcotics charges. Warrants were issued for four others. In addition to the marijuana, ATF seized five firearms, 691 rounds of ammunition and two pipe bombs. A trace of one of the seized firearms has implicated a well-known New Orleans businessman, long suspected of involvement in narcotics enterprises.

Boston, Massachusetts. On August 6, 1987, a grand jury in Boston indicted a subject for violations of the Federal firearms laws. The subject, a felon and a "Kingpin" in the Regaldo organization, is a target of a New England OCDETF investigation. The subject was found to have purchased 16 firearms while being a convicted felon. It is *suspected that he has been supplying firearms to his associates for use during their narcotics activities.*

Ontario, Oregon. On September 20, 1987, ATF arrested five subjects in Ontario, Oregon, for violating 18 U.S.C. 924(c), Using Firearms in the Commission of a Federal Drug Trafficking Offense. The five subjects were manufacturing and distributing methamphetamine. The leader of the group was a member of the Hell's Angels motorcycle gang. A search of the subject's residence in Ontario, Oregon, resulted in the seizure of 41 Title I firearms and 1 Title II firearm.

Spokane, Washington. On August 27, 1987, a subject was arrested for his part in the 1983 murder of a Spokane police officer during an extortion of an eastern Washington firearms collector. The subject, a convicted felon, is the 25th person to be recommended for prosecution in this ATF-sponsored OCDETF investigation involving the Ghost Rider Motorcycle Gang.

LE ASSISTANCE TO THE UNITED STATES SECRET SERVICE

In FY 1988, ATF will provide a large commitment of resources to assist the U.S. Secret Service in their protection responsibilities during the 1988 Presidential campaign. It is anticipated that ATF will expend a total of 146 staffyears in fiscal years 1988 and 1989.

ATF willingly accepts U.S. Secret Service requests for assistance. Their confidence reflects on the professionalism of ATF's field agents, and this assistance has further reinforced the working relationship with ATF's sister agency.

LE AGENCY CONSOLIDATED INFORMATION SYSTEM (ACIS)

ATF has recognized for some time the need to develop an integrated law enforcement information database in support of law enforcement investigative operations and activities. To respond to this need the TECS II database will be implemented during FY 1988 as a result of a mandate from the Department of the Treasury. In FY 1988, ATF will convert approximately 120 terminals from TECS I capability to TECS II. It is anticipated that during fiscal years 1989, 1990, and 1991, ATF will install another 1,200 terminals capable of accessing the system from individual work stations.

The Office of Law Enforcement has systems which are totally independent, non-integrated and of limited value to the field operations. During FY 1988, ATF will convert its firearms and explosives licenses, traced firearms, NFA registrations, explosives incident and Law Enforcement Management Information System (LEMIS) data bases to the ATF mainframe. To totally integrate our law enforcement network to meet the needs of a modern law enforcement environment, ATF has plans to install minicomputers in all 22 district offices throughout the United States. Implementation will be accomplished over a three-year period. In FY 1989, ATF will install nine minicomputers integrated through the TECS network with the TECS mainframe, ATF mainframe, NCIC, and NLETS. This will provide a totally integrated network enabling the Bureau to access multiple hosts. In addition, new applications are being designed and developed to enable ATF to computerize many of its manual functions. This will permit ATF to have a modern integrated computer system with on-line, interactive data entry and retrieval, user friendly querying and report generation and statistical and analytical capabilities.

As part of ATF's commitment to the TECS II project, it was agreed that ATF would design and develop its own computer system and remove all its applications from the U.S. Customs Service mainframe. It is anticipated that this will be accomplished during FY 1990 with the conversion of applications from TECS II to ATF's IBM mainframe. During FY 1989, ATF will initiate design and development of the necessary new applications and convert those applications presently resident on TECS II to acceptable machine language. ATF will continue to utilize TECS for a subject record file, but removal of all other data from the system will allow additional space for Customs applications.

COMPLIANCE OPERATIONS PROGRAMS

ATF regulates several industries which market products that are sensitive in nature and subject to much public interest. It has been the Bureau's philosophy to regulate only those areas which need to be regulated and then only to the extent necessary to achieve the intent of the law. A balance is sought between effective administration of statutory requirements, the legitimate needs of industries under ATF's jurisdiction and the protection of the public.

The Bureau is extremely selective in setting goals to assure effective resource utilization. Field inspections are concentrated on those areas which cause the most jeopardy to revenue collection or which pose the greatest threat to public safety.

To accomplish this objective, Compliance Operations field offices continually assess and report on the compliance climate in their ~~geographical~~ jurisdictions. Field supervisors frequently consult with their Law Enforcement counterparts to discuss problems of mutual concern and identify specific areas to target so ATF's Law Enforcement mission is fully supported. Compliance Operations then targets its examinations to those entities where the greatest potential for non-compliance exists. Throughout the year, and especially at its conclusion, progress made in field programs is analyzed, necessary revisions made, and new targets for the following year identified.

In addition to regulation and field programs, several other initiatives have been adopted to increase compliance levels including advanced training of employees and automation. In all program areas, educational seminars are conducted which involve active participation of industry members and state agencies. These seminars create an atmosphere in which ATF requirements are better understood and more likely to result in compliance by all industry segments.

CO ALCOHOL PROGRAM

The Bureau's alcohol compliance program is responsible for: preventing the entry of criminals or other prohibited persons into the industry through a full qualification program; ensuring collection of alcohol beverage excise taxes through field examinations and office reviews; protecting public safety by ensuring the integrity of alcohol beverage products; and providing an orderly marketplace for producer, distributor and consumer trade.

Qualification

ATF is responsible for keeping prohibited and unqualified persons out of the alcohol beverage industry. This goal is achieved in two ways. First, permits are issued only to those individuals who have the necessary business experience, are not statutorily prohibited, and are likely to comply with ATF requirements. Second, ATF ensures that entities already qualified and possessing permits remain in compliance by conducting selective investigations to determine that no hidden ownership or illegal funding has occurred. For example:

> *ATF denied an individual's application for a wholesaler's permit because he had organized-crime connections and had been convicted of conspiracy to cash stolen Treasury checks.*
>
> *A criminal records check disclosed that the president of an applicant corporation had been convicted on four counts of postal fraud and had used a false social security number on the permit application. Adverse information obtained during the qualification investigation was referred to a state securities commission and to ATF Law Enforcement. The application was subsequently withdrawn.*

Tax Compliance

In December 1987, the rates for special occupational taxes were raised and extended to 17,000 additional taxpayers. The new rates were effective January 1, 1988, with payment due by April 1, 1988. Since these taxes are normally paid at the beginning of the special-tax year on July 1, ATF initiated a one-time effort to make mid-year collections from taxpayers at

410,000 locations. A contract bank has been selected for mailing out the special occupational tax returns.

Historically, ATF has encouraged the alcohol industry to pay the proper taxes through a strong revenue examination program. In FY 1987, ATF collected $5.3 billion in alcohol excise taxes. The current high rate of tax compliance is directly related to this enforcement effort. ATF can expect future compliance to be only as good as the examination, verification and enforcement process. Examples of the findings of revenue examinations conducted by Compliance Operations field personnel included:

> *An examination established that a winery overfilled bottles of wine coolers and other wines, resulting in products being removed without proper payment of taxes. The winery paid $756,000 in additional taxes and interest.*
>
> *Distilled spirits floor-stocks-tax examinations resulted in numerous additional assessments. One wholesaler paid an additional $155,000 in taxes and interest; another wholesaler paid over $73,000; and a third wholesaler paid $57,940. Overall, in excess of $1,910,000 in additional taxes was collected through this program.*
>
> *An examination of a brewer with multiple locations disclosed a major problem in product accountability. Additional tax liability at two locations was determined to be $280,800 and $157,500; and $65,700 more was collected for other tax problems.*

In support of examinations conducted at the premises of revenue producing plants, specialists in ATF regional offices review tax returns and other documents submitted by revenue producers. These office reviews are an important part of ensuring that excise taxes are collected.

One program conducted by field offices has been the Special Occupational Tax Program. In FY 1987 the following cases are just a few examples of the results:

> *A chain of grocery stores was required to pay over $46,500 in delinquent special occupational tax, penalties and interest;*
>
> *A restaurant chain, with 104 locations, paid $40,500; and*
>
> *A chain of retail liquor dealers with 183 locations paid over $12,900.*

ATF constantly strives to maintain an effective taxpayment compliance program based upon active examination skills training programs and management's insistence for high standards. Training, such as Advanced Examination Techniques, is provided to field employees so they are better able to detect taxpayment deficiencies. To support field operations, the Bureau also has an effective staff of professional auditors who are requested as technical experts to assist with the most complex and sophisticated taxpayers.

Alcohol Product Integrity

Another area of concern is product integrity. ATF nas enhanced the alcohol market sampling program by obtaining additional laboratory equipment and increasing sampling schedules. A Bureau Contamination Response Team has been created to monitor each contamination incident and coordinate ATF responses.

During the past three years, the Bureau has dealt with foreign wines contaminated with the hazardous substance diethylene glycol (DEG). As a result of sampling and product removal efforts, millions of wine bottles contaminated with DEG were recalled from the market and destroyed or returned to the foreign producers. These incidents involving DEG-contaminated wines demonstrate the continued need for ATF's permit and label approval requirements to ensure quick and appropriate responses to protect the American consumer.

Field examinations, sampling programs and other efforts have disclosed that hazardous ingredients are still being included in alcoholic beverages. ATF also continues to find significant instances of label discrepancies by which consumers are misled about the contents of alcoholic beverages. The following are some examples of these problems.

An examination disclosed that a winery had falsely stated the grape varietals on the labels on two wines. ATF required the winery to relabel all 4,000 cases bottled.

Laboratory analysis of market-basket samples disclosed the following: the presence of calamus (a carcinogen) in an imported Irish liqueur; methyl alcohol in imported fruit brandies; pesticides in French wines; and an FDA-regulated coloring additive in a Jamaican rum. In all these examples, the importer or foreign producer removed the products from the market.

For certain imported products, ATF requires samples to be submitted for laboratory analysis prior to issuing label approvals. Some products found to contain hazardous ingredients were: An Italian liqueur which had calamus (a carcinogen); another liqueur which contained thujone (absinthe); and a Polish vodka and several imported liqueurs which contained coumarin (another carcinogen). All these products were denied entry into the United States.

Sodium hydroxide (lye) was found in bottles of a raspberry wine cooler. The lye was accidentally introduced during bottling because bottling lines were improperly flushed after cleaning.

A winery bottled 20,000 cases of White Zinfindel wine, but the wine contained 35% Pinot Noir grapes. Although the winery was apparently misled by the grape grower, it voluntarily agreed to discontinue bottling and distribution.

International Actions

Because of ATF's expertise in the field of domestic and foreign law as it applies to beverage alcohol products, ATF is increasingly requested to assist U.S. Government efforts to minimize or eliminate international barriers impeding U.S. export trade in wine, distilled spirits and malt beverages. For example, ATF played a major role in the May 1987 United States - European Economic Community technical consultations on beverage alcohol products. Participation in international activities also aids in recalling or intercepting contaminated imported products.

ATF is also continuing to provide substantial technical assistance to the Office of the U.S. Trade Representative in its undertakings with respect to the Wine Equity and Export Expansion Act of 1984. This assistance has made a significant contribution toward facilitating wine export trading to Japan, Canada, Taiwan, South Korea, and the Caribbean area.

Market Integrity

To enforce the trade practice provisions of the Federal Alcohol Administration Act, ATF aggressively investigates allegations of significant violations. Efforts are concentrated on those industry members engaged in illegal interstate activities. An indication of the success of this approach during 1987 is that 25 cases were resolved and offers-in-compromise totaling $262,500 were accepted. In addition, permits of four industry members were suspended an average of five days each for trade practice violations.

Trade practice seminars have been held throughout the country for purposes of increasing cooperation between ATF and State agencies and increasing compliance by industry members. Seminars held last year were very well received by both industry and State agencies.

CO TOBACCO PROGRAM

ATF's tobacco compliance program is similar to the qualification and revenue protection aspects of our alcohol program. Applicants for permits are screened for suitability, and qualification inspections are conducted to ensure that only eligible persons likely to comply with regulations enter the industry.

Field employees conduct revenue examinations at tobacco products factories and other locations to verify that all excise taxes have been paid. In FY 1987, ATF collected $4.8 billion in tobacco excise taxes.

CO FIREARMS PROGRAM

The Bureau's firearms program is based upon the Gun Control Act of 1968, Public Law 99-308 of 1986, and other statutes. Licenses are required to manufacture, import and sell firearms. The intent of firearms statutes and ATF qualification efforts is to prevent statutorily prohibited persons from obtaining licenses. Additional information requests for FY 1987 led to revocation of 9 licenses and denial, withdrawal or abandonment of 2,077 applications.

A very important aspect of the firearms program is the support given to ATF special agents in their efforts to apprehend criminals and assist other law enforcement agencies. For this reason, inspectors frequently work with special agents in identifying criminals who purchase firearms and in investigating persons who criminally misuse their license. Part of ATF's application process involves a criminal records check of the applicant. Regional offices also respond to numerous requests for information from law enforcement agencies concerning the license status of individuals. For example:

> *After a compliance inspection disclosed that a purchaser had three felony convictions, a referral was made to Law Enforcement. ATF special agents completed their investigation and submitted a completed case report to the U.S. Attorney's Office for prosecution.*
>
> *A TECS "hit" initiated by an inspector in Dallas was referred to Law Enforcement special agents. This teamwork resulted in the significant arrest of a subject who had illegal drug manufacturing equipment at his residence and the seizure of marijuana worth $20,000, $6,000 in cash, an unregistered sawed-off shotgun, and 13 other firearms.*

Inspectors also conduct compliance inspections of licensees previously identified as likely to violate provisions of firearms statutes. These inspections prevent firearms dealers from making sales to prohibited persons and ensure that a dealer's records are sufficient to trace the flow of firearms used in crimes. For example:

> *A compliance inspection was conducted at a licensee's premises after receiving a referral from ATF special agents. The licensee was suspected of selling to out-of-state residents and to persons illegally exporting firearms. Inspectors determined that sales were made to underage persons; transaction forms were forged; and firearms were missing from inventory. Subsequent investigation by ATF special agents resulted in a*

guilty plea by the licensee who has since surrendered his license and records.

Compliance Operations regional offices are responsible for processing firearms license applications and maintaining the Bureau's licensee files. In 1987, there were 262,000 firearms licensees. Regional offices processed 98,400 applications, of which 36,800 were first-time applicants and 61,600 were renewals.

ATF is also responsible for enforcing registration and revenue provisions of the National Firearms Act (NFA), a statute which regulates machine guns and gangster-type weapons. The Bureau has automated its NFA registration files to handle registration information on over 280,000 NFA firearms and to act more quickly upon requests for information from law enforcement agencies.

As in other programs, the Bureau uses firearms licensee seminars to improve understanding of and compliance with Federal laws. State officials are actively involved in conducting these seminars. Last year, 124 seminars were conducted and the response from the firearms industry has been very positive.

CO EXPLOSIVES PROGRAM

ATF's explosives program ensures that licenses and permits are issued only to eligible persons, that records are maintained in order to permit traces of explosives used illegally and that explosive materials are stored safely and securely. Regional office personnel review all applications for accuracy and initiate criminal records checks to prevent prohibited persons from receiving a license or permit. Inspectors examine explosives storage facilities before a license or permit is issued to ensure facilities meet stringent Federal requirements.

After a person is issued an explosives license or permit, ATF inspectors conduct periodic compliance inspections. These inspections ensure storage facilities continue to meet ATF safety and anti-theft requirements and sufficient records are maintained to enable law enforcement officers to trace movement of explosive materials. Examples of the explosives inspections program include:

> *At a suburban Metro subway station under construction, an inspector found that explosives were being stored overnight in excess of authorized limits. The contractor was required to reduce the amount stored by over 6,000 pounds of high explosives.*
>
> *A compliance inspection conducted at a licensee's location disclosed 130 lbs of black powder stored in the indoor magazine. The excess was immediately moved to an approved outdoor storage facility.*
>
> *An inspector at a permittee's location found that 100 pounds of dynamite in storage had deteriorated to the extent that the sticks had fallen apart and crystals had formed. The permittee was required to move the dynamite to property owned by the local fire department where it was destroyed.*
>
> *An inspector found that a licensee was storing high explosives overnight in trucks which were inadequately constructed for the storage of high explosives. As a result of the inspection, the licensee no longer pre-loads for the next day's work. Primarily due to this incident, ATF plans to issue an industry circular discussing the allowable and prohibited pre-loading of explosives.*

EQUAL OPPORTUNITY

Finally, but by no means least important, are the equal opportunity activities of the Bureau. Equal opportunity responsibilities are included in performance standards for all Bureau executives and managers who are responsible for implementation of the Bureau's affirmative action plan.

The Bureau has continued to make outstanding progress with regard to affirmative action which is attributed to the continual and persistent support for minorities and women by all management levels within the Bureau. During FY 1987, minorities or women constituted 52 percent of employees hired.

The Bureau plans to continue aggressive recruitment, particularly for mainstream positions (i.e., special agent and inspector), to further enhance employment profiles of minorities and women within the Bureau.

The Office of Equal Opportunity has assisted in recruiting qualified minority and female candidates to fill vacancies at all job levels. To this end, Bureau representatives have made numerous presentations at colleges and universities. In addition, the Bureau has continued its community outreach, consistent with the President's initiatives on Historically Black Colleges and Universities and the Federal Equal Opportunity Program.

The Office of Equal Opportunity has worked jointly with the Office of Law Enforcement to implement an innovative Minority Impact Program—to ensure the Bureau's committment to full minority and female special agent representation and development.

Mr. Chairman, and Members of the Subcommittee, this completes my statement. I will be pleased to answer any questions you or members of your Subcommittee may have.

JAMAICAN POSSES

Mr. HIGGINS. It takes about 9 minutes.

[A short video was shown and a copy furnished.]

Mr. HIGGINS. That concludes my prepared remarks.

We have some firearms displayed here today. We have no special remarks about them, other than if you have any questions, we will be pleased to answer them. These are examples of the kind of firearms confiscated by ATF.

Senator DECONCINI. These are actual arms that you have picked up from the Jamaican Posses?

Mr. HIGGINS. Some of the weapons were seized from Jamaicans and some from drug traffickers.

Senator DECONCINI. In your presentation it says that this got started in 1980 or 1981.

Mr. HIGGINS. The first gun-tracing request we received regarding American-manufactured weapons seized in Jamaica was from Interpol in 1984. However, it seems like the influx of Jamaicans into the country began sometime in early 1980.

Senator DECONCINI. What has prompted Jamaica to become such a focal point, do you have any observations?

Mr. HIGGINS. No; we are not specifically sure what the cause was. However, there was a considerable period of unrest in Jamaica in the late 1970's and early 1980's. During that period, a number of people came to this country, many of whom were trained in the use of firearms.

While there is some initial indication they may have come here to raise money to send back home as shown in the film. That doesn't appear to be the case now.

COOPERATION WITH JAMAICAN GOVERNMENT

Senator DECONCINI. What kind of cooperation are you having with the Jamaican Government?

Mr. HIGGINS. We have been in close contact with them each time we are involved in activities concerning Jamaicans, whether they are legal or illegal. I should point out that an overwhelming percentage of the Jamaicans in this country are here legally and are law-abiding citizens. I want to make a point that Jamaican criminal groups comprise a small percentage of the Jamaicans in this country that we are talking about.

The Jamaican Government has been extremely cooperative in terms of providing us with the information we have requested. Beyond that, it is difficult for me to discuss because we have such limited contact with the Jamaican Government.

Senator DECONCINI. You don't work with the Jamaican Government?

Mr. HIGGINS. We have a reciprocal arrangement with the Jamaican Government. Information is exchanged when the situation warrants. This situation was initiated by the Jamaican Government when they found guns of United States manufacture in Jamaica. They asked us if we would trace those guns.

Senator DECONCINI. Do you have any agents over there?

Mr. HIGGINS. No; we only have one agent outside of the United States and that is with Interpol.

Senator DECONCINI. I find it difficult to think that you wouldn't be able to gather a lot of information by tracing some of these people back into Jamaica and dealing with their law enforcement over there as to some of the sources that they come from, and so forth, but you don't do that. Don't you have authority to do it?

Mr. HIGGINS. We can ask the Jamaican Government for assistance and gather information, but we have no jurisdictional authority in that country.

Senator DECONCINI. Of course not, but you can go over there and ask them to look at files. Do you do that?

Mr. HIGGINS. In some particular cases, we do.

Mr. MCGUIRE. We have in specific cases. On balance, Senator DeConcini, it is very difficult for the Jamaican Government to be of any assistance to us because of the nature of the criminal acts. Posse members come over here under fictitious names and they change names frequently. There are no fingerprints on file in their own country, so frequently it is hard for us to identify them in such a fashion that the Jamaican Government even knows who we are talking about.

We do exchange intelligence with them and they have been cooperating.

Senator DECONCINI. What about the DEA, are they familiar with these people?

Mr. MCGUIRE. Yes; and they are working with us on our task forces.

DRUG ENFORCEMENT ADMINISTRATION COOPERATION

Senator DECONCINI. In the hearings that Senator D'Amato had up in New York, the DEA traced quite a series of identifiable Colombians, both in Colombia, some of them going through Jamaica, and then coming to New York. They exposed several dozen pictures and names of them.

Senator DECONCINI. Do you have that kind of information?

Mr. HIGGINS. We have pictures and identification of lots of Jamaican criminals, but you almost run into a dead-end because many of them are here illegally and there are no established records. In some cases, you are lucky to even find the correct name.

Senator DECONCINI. What cooperation do you have with the DEA on the subject matter of Jamaica? They have agents over there, I think.

Mr. HIGGINS. We have had excellent cooperation with DEA. We work together in a number of our task forces. DEA also furnishes us with lists of firearms which they have seized and they ask us to trace the source of the firearms. Our overall relationship with DEA is very good.

Senator DECONCINI. What is your procedure to cooperate? Do you have a committee, or a task force, or something?

Mr. McGuire. I meet at least once a month with Dave Westrate, my counterpart at DEA, to discuss matters such as the Jamaicans.

A couple of years ago ATF was able to bring to the attention of all Federal law enforcement in the United States the emergence of the Jamaican crime groups.

We held a conference in Miami 1 year ago where we invited interested law enforcement organizations from around the country to participate. Ultimately, the interest in Jamaican Posses, not only from the United States but from Canada and Europe, was so great that we had to limit enrollment.

After the conference, ATF was established as the informal clearinghouse for intelligence in the United States on Jamaicans. There have been numerous murders in the United States where local authorities would come to us and we would be the first organization to identify who these people were and to which posses they belonged.

This summer, we will be cohosting a conference in Maryland with the Middle-Atlantic-Great Lakes Organized Crime Law Enforcement Network, which is one of the information exchange groups for the Northeastern part of the United States. The theme of the conference will be the Jamaican organized crime groups. We expect attendance of probably 250 people there this summer.

Senator DeConcini. What do you do with the DEA? Do you have a coordination so that you don't duplicate each other?

Mr. McGuire. Yes, sir; we do.

Initially, there was a feeling that perhaps, while the Jamaicans were of an extremely violent nature, the magnitude of their narcotics business in single transactions might not be large enough to meet the priorities that DEA had established. As we learned more about the Jamaicans and the large amount of profits they were earning by handling the narcotics from the farm to the arm, DEA has decided to actively participate in our task forces.

We now have 23 task forces in cities around the United States, 18 of which are formalized, where we are sharing office space and automobiles with DEA, and State and local agencies.

AGENT SAFETY

Senator DeConcini. How many agents have you lost, if any, in this area of the Jamaicans?

Mr. Higgins. None.

Senator DeConcini. What has it done to the necessity to increase the weapons that your agents carry?

Mr. McGuire. For the past year we, along with other law enforcement organizations, have been evaluating the standard sidearm weapons we have been carrying. We have a study in process in which we purchased a limited number of semiautomatic weapons, the 9-millimeter pistols, to provide more firepower for our agents.

Based upon our initial results of those tests we have ordered a sizable quantity of these semiautomatic weapons for our agents.

Senator DECONCINI. When will those be deployed?

Mr. MCGUIRE. We currently have 50 in the field. An additional 250 will be supplied to the field within 90 days.

Senator DECONCINI. How many agents do you have in the field?

Mr. MCGUIRE. We will have 1,600 at the end of this fiscal year. They are very expensive weapons to purchase.

Senator DECONCINI. You don't have enough money to buy them?

Mr. MCGUIRE. Not all at one time; no, sir.

Senator DECONCINI. How much would it cost you to have those?

Mr. MCGUIRE. They cost approximately $400 each, or $520,000 for an additional 1,300. Also, in response to the threat of criminal firepower, all of our agents are equipped with the armor-proof vests.

Senator DECONCINI. Have you made such a request for money to buy them all?

Mr. MCGUIRE. Not specifically for the semiautomatic weapon. In all fairness, we are just now in the phase of continuing to evaluate their utilization. At this time, we are not 100 percent sold on the specific brand of weapon that we want to purchase.

Senator DECONCINI. Senator Domenici, would you care to make an opening statement?

Senator DOMENICI. Mr. Chairman, first, I apologize for being late. We got stuck with the Secretary of Defense and the Chairman of the Joint Chiefs in the Budget Committee on the overall numbers. We learned some interesting things and I couldn't get out of there.

OPENING STATEMENT

My opening remarks are just welcoming remarks, and I will ask to have them put in the record.

[The statement follows:]

OPENING REMARKS OF SENATOR PETE V. DOMENICI

Mr. Chairman, I have no formal statement to make. I simply wish to join you in welcoming the distinguished witnesses appearing before us today.

We are meeting today to hear the fiscal year 1989 budget presentations of two of the Treasury law enforcement bureaus under the jurisdiction of this subcommittee. I welcome the Director of the Bureau of Alcohol, Tobacco and Firearms, Stephen Higgins; as well as the Director of the Federal Law Enforcement Training Center, Charles Rinkevich. We are pleased to have you with us this afternoon.

We will later be hearing from the Federal Election Commission which is facing high workload demands in this Presidential election year. FEC Chairman Thomas Josefiak, along with the FEC Vice Chairman and Finance Chairman, Danny Lee McDonald, will be presenting us their fiscal year 1989 request. I look forward to your testimony as well.

Thank you.

GLYNCO TRAINING CENTER

Senator DOMENICI. I have to leave at 2:30 and I very much wanted to participate in the portion of this hearing related to the Federal Election Commission. How long do you think you will be here?

Senator DECONCINI. We will probably be through with this in 15 or 20 minutes.

Senator DOMENICI. I, too, welcome you all here.

Could I just ask with reference to the training center, is the chief witness here on the next panel?

Senator DECONCINI. Director Rinkevich is here.

Senator DOMENICI. Let me just ask if the chairman would permit me, I am not going to be here to question you. I read something here, and I am wondering if my mind is going haywire. You said that the center started in 1970 by understanding among a number of agencies?

Mr. RINKEVICH. That is when the center was originally created; yes, sir.

Senator DOMENICI. But not the site.

Mr. RINKEVICH. No, sir; Glynco was in 1975. The location was changed from Washington in the summer of 1975.

Senator DOMENICI. I was just going to remind them that as a brand new minority Senator, I might tell you, Mr. Chairman, my name will never be up there on any of those plaques because, by the time we got that done, every powerful Senator around took credit. You know how that is. [Laughter.]

Senator DECONCINI. I didn't take credit, I wasn't even here. [Laughter.]

Senator DOMENICI. I can tell you how it really happened. It was in the Public Works Committee, and we were supposed to be buying them a new building. We had lots of money. You were having that fight with Maryland as to whether you would locate over there in this little town.

Mr. RINKEVICH. Yes, sir.

Senator DOMENICI. I just thought to myself, why don't we just delay that and pass a resolution asking if there is any vacant military establishment in the country that it might fit in. They adopted it and put it off for 120 days, and they found that place. That is how it went there. You owe me one.

Senator DECONCINI. Have you been down there? I think they have a plaque down there that says Senator Pete Domenici.

Senator DOMENICI. They talked to all the other fellows that joined after that, and they are all on the plaque.

Senator DECONCINI. I think your name is on the plaque.

Senator DOMENICI. When we get around to having to spread it out and have little satellites, you might give a little consideration to New Mexico for my generosity and good deeds. [Laughter.]

SPECIAL OCCUPATIONAL TAX REVENUES

Could I just quickly ask, with reference to the Bureau of Alcohol, Tobacco and Firearms, in the Omnibus Reconciliation Act of 1987, we extended and increased the special occupational taxes on producers, manufacturers, and dealers. What are the additional revenues that are going to be generated from that act for fiscal years 1988 and 1989?

Mr. DRAKE. There is a mid-year payment that goes from January 1 through June 30 this year. We expect about $35 million to come in turn during this period for the half-year adjustment based upon what was paid from July 1, 1987, through the end of the tax year.

In fiscal year 1989 we anticipate revenues will be $117 million. Of this amount, $17 million will result from enhancing the taxpayer data base.

Senator DOMENICI. Where are those moneys accounted for? Is there a separate account within Treasury that those moneys go into?

Mr. DRAKE. It doesn't go to our budget.

Senator DOMENICI. I understand.

Mr. DRAKE. It goes into the general Treasury account.

Senator DOMENICI. But it is easy to know. It is easily discernible?

Mr. DRAKE. Absolutely.

DELINQUENT OCCUPATIONAL TAXES

Senator DOMENICI. I note in your justification for this budget that you have beefed up enforcement of delinquency collections. In your justification, you indicate that there are approximately 300,000 delinquent occupational taxpayers. What are you going to do to collect this, and what will it cost if we don't have enough enforcement there for us to do a better job?

Mr. DRAKE. If we don't have the resources to enforce it, and we are unsuccessful in working with the States to develop a complete and accurate data base, then the level of compliance will deteriorate.

There are estimates that suggest there are at least 750,000 taxpayers. In our last mail-out, we sent out approximately 400,000 tax bills, and we received 270,000 returns. This indicates 130,000 taxpayers have not complied. Our estimates indicate that the actual amount is probably closer to 300,000. Without the additional enforcement efforts compliance will deteriorate.

Senator DOMENICI. Are you telling us now that you are understaffed in the enforcement area and that no significant catching up in this approximation of 300,000 delinquent special account taxpayers is going to occur?

Mr. DRAKE. At the present time, we can handle what we have. For the future, the numbers outweigh us.

Mr. HIGGINS. We have some low-cost things that we can do in terms of office processing and followup telephone checks. Now, with the $250 as opposed to, in some cases, $24 a year tax, it would be worthwhile to make a compliance visit if they don't pay within a certain period. That is the part of the program that we really need the additional resources for. We can do the office processes within current resources.

Senator DOMENICI. Mr. Chairman, I think that we all ought to be concerned about that high level of noncompliance. We raise the fees in order to raise money, and then we don't even go after, in an orderly way, the accounts under the old fee system. I think that we ought to do something about it.

I understand that one of our problems is that if you raised an extra $50 million, we don't get any credit in the appropriation process, so we are still getting squeezed. But we might be able, if you gave us some estimates of what you would collect, to strike a deal. If we can put $50 million on the revenue side, it may give us $5 or $10 million for enforcement someplace.

Mr. HIGGINS. We will provide that for you.

[The information follows:]

With additional positions and an additional $3 million in fiscal year 1989, we would be able to obtain the staffing, contractor support and computer hardware and software needed to complete the collection of delinquent taxes.

ARMED CAREER CRIMINAL APPREHENSION PROGRAM

Senator DOMENICI. I have a series of questions, and I will submit them for the record. Thank you, Mr. Chairman.

Senator DECONCINI. Senator, the Federal Election Commission people are here. If you would like to propound some questions to them, I would be glad to go out of order to accommodate your schedule, or right after we get through here.

Senator DOMENICI. Whenever we finish, that is fine.

Senator DECONCINI. Mr. Higgins, last year Congress recommended, and the President approved, an additional $10 million for the successful Armed Career Criminal Apprehension Program at BATF. This level of funding was intended to provide for the hiring of 120 special agents, 60 inspectors, and 20 support personnel for the program.

What is the status of your efforts to hire those personnel, and what effect will the President's rather dismal 1989 budget have on your ability to at least annualize last year's armed career criminal apprehension initiatives?

Mr. MCGUIRE. While it has not been an easy task, we are currently processing applications to bring the people on board. Just the process alone makes it rather difficult, but we place a high priority on hiring.

With regard to armed career criminal apprehension initiatives completed, we have 95 cases against these types of defendants since the beginning of the fiscal year. These are all convicted recidivists who are receiving long-term, enhanced sentencing, of up to 15 and up to 25 years. We tell our friends at DEA that we should take credit for their prosecution rate. Narcotic violators now want to plea bargain on narcotics charges to avoid conviction on firearms charges because of the enhanced penalties under firearms laws.

A reduction of 132 positions in the Armed Career Criminal Program will necessitate that ATF pursue the higher priority, more visible cases.

Senator DECONCINI. How many did you hire last year? With the $10 million we gave, did you hire the 120?

Mr. MCGUIRE. The $10 million was appropriated for fiscal year 1988.

Senator DECONCINI. You did meet that?

Mr. MCGUIRE. We are processing applications now to meet our goal in law enforcement.

Senator DeConcini. Has OMB wanted you to slow down?

Mr. McGuire. I think that it is not so much that they want us to slow down in that program, Senator DeConcini, it is just that among the competing demands for resources within the Treasury Department, they saw this as a place where cuts might be taken.

Senator DeConcini. You were not told not to hire in 1988?

Mr. McGuire. No, sir; absolutely not.

Senator DeConcini. You are still going according to the law?

Mr. McGuire. Yes, sir.

Senator DeConcini. Mr. Higgins, page 10 of your blue pages in the justification reflects your plans to increase the agency's explosive law enforcement budget by about $4.3 million, or 7 percent over current levels, yet I can't find an explanation for this proposed increase in your budget narrative.

Could you tell us about the increase, and where you plan to put the additional resources?

Mr. Higgins. I think we are going to have to provide that.

[The information follows:]

The $4.3 million increase in the Law Enforcement Explosives Program reflects costs associated with continuing the same level of effort in fiscal year 1989 as that which is occurring in fiscal year 1988.

DRUG SOURCE COUNTRIES

Senator DeConcini. Fine. We just noticed that we didn't have any information on that, and I would like to have the justification.

Congress is about to consider, Mr. Higgins, whether or not certain major drug sources and transshipment countries should be certified as cooperating with the United States in fighting the drug smugglers. There is no comparable process for checking to see which foreign countries are major contributors to international weapons trafficking.

Could you tell us about those countries which appear to be most involved in weapons trafficking and give us a brief overview of Mexico, Panama, and other countries where the weapons-drug connection might be most acute?

Mr. Higgins. From our standpoint, it is a situation where many of the weapons that we are tracing are coming out of this country, whether they are being manufactured or being transshipped, into those countries. It is actually almost the reverse of the drug problem.

In some cases, narcotics traffickers are coming north with drugs and taking firearms back with them. We are working with the Mexican officials, as an example, by tracing guns that are recovered in crimes in Mexico. They provide us with the serial numbers, and then we identify the source. If it is an illegal source, or if there are people purchasing guns illegally, we attempt to stop that source.

We do that with Mexico, Colombia, and several other Central and South American countries. It is almost the reverse of the situation for drugs. We are trying to provide assistance to them by exchanging information.

OPERATION ALLIANCE

Senator DECONCINI. Were you involved in the recent successful Mexican apprehension of a large amount of weapons along the southwest border of Arizona?

Mr. HIGGINS. Yes; without going into that case, it came out of some information that was developed in an earlier case that we were involved in.

Senator DECONCINI. Is weapons smuggling, say, into Mexico greater this year than it was last year, or is it pretty much the same? Can you give us any measurements?

Mr. HIGGINS. We have, in terms of Operation Alliance, a good record in tracing firearms that are entering Mexico and that are involved in arms or drug trafficking.

It is a fair number of firearms. I don't know that anyone can measure whether there are more now than before because there are many other sources for firearms entering Mexico. There is little checking done of products that move out of this country; most of the emphasis is in terms of intercepting illegal items coming into the United States.

Senator DECONCINI. How many apprehensions did you have last year?

Mr. MCGUIRE. For Operation Alliance alone it was approximately 200 criminal cases, and those are of two types.

Senator DECONCINI. These are all weapons cases?

Mr. MCGUIRE. Yes, sir.

Senator DECONCINI. Is that for the year 1987?

Mr. MCGUIRE. Yes, sir, 1987.

Senator DECONCINI. Thank you.

Mr. MCGUIRE. One type of case would be where we use firearm laws against narcotic traffickers who are carrying firearms illegally. The other type is where the statute would apply against those individuals who are trafficking in firearms to profit from narcotics. There is an approximate ratio of 2 to 1 in cases against narcotic traffickers violating firearm laws. There are far more narcotic traffickers than there are firearms traffickers.

Senator DECONCINI. How many arms have you confiscated?

Mr. MCGUIRE. As a part of Operation Alliance alone, we confiscated a total of 1,007 firearms. We also made one case against a series of disreputable licensed dealers in south Texas last year that were responsible for over 7,000 firearms being sold illegally, nearly all of which we think went into Mexico.

Senator DECONCINI. How many of those did you confiscate?

Mr. MCGUIRE. None of those were actually seized.

Mr. HIGGINS. In the first 4 months of this year, in Operation Alliance we have had 90 defendants recommended for prosecution, and over 230 firearm and destructive devices taken into custody, which includes 10 machine guns and 11 silencers. Those figures seem to be running fairly consistent with the year before.

COOPERATION WITH MEXICO

Senator DECONCINI. Is the Mexican cooperation at a good level would you say, or how would you describe it?

Mr. HIGGINS. Yes and no. They have an advantage in wanting to cooperate with us in this particular area because this is where we can be of service to them. These guns are being used against their police officials and others in the states within Mexico.

We offered to provide them with this service to stop the flow if they will give us the serial numbers of the firearms. We met as recently as last week with the assistant attorney general of Mexico and discussed these issues. Mexico has offered to provide the numbers, but the serial numbers have been coming in rather slowly.

He seemed to have a sense that Mexico had a better system for providing serial numbers, and that we would see an improvement. We intend to followup on the meeting by sending someone down to Mexico City to ensure the information channel to this country is open with respect to those numbers.

Senator DOMENICI. Would the chairman yield?

Senator DECONCINI. I yield.

DRUGS AND FIREARMS RELATIONSHIP

Senator DOMENICI. I understand the relationship between drug trafficking and firearms where you state the direct correlation that anybody can see, where it is a drug trafficker with guns.

In the unrelated sense, just the moving of guns and that type of thing to Mexico, is there a relationship between that and drug trafficking, in your opinion, and if so, what is it?

Mr. MCGUIRE. There is a tremendous opportunity for profit. If you disregard the narcotics aspect, a firearm that would sell along the Southwest border for $100, in the interior of Mexico would bring $1,000. Mexico passed their firearms legislation, incidentally, the same year we did, in 1968, except it is a whole lot stricter than our firearms laws. Mexican criminals seem to have a real fascination with the heavy caliber, paramilitary weapons we are seeing more of in this country in addition to the profit motive.

Those same individuals who are bringing the narcotics into this country are up here with cash. They want and need firearms for their own safety or protection of their territories, their contraband, and their money, so they purchase guns to carry back with them.

Senator DECONCINI. Selling them for $1,000 is pretty good business too.

Mr. MCGUIRE. Exactly, that is my point.

Senator DOMENICI. That is what you are talking about.

Senator DECONCINI. Not just for their own protection, but to sell them to others.

Mr. MCGUIRE. Yes, sir.

Senator DOMENICI. I was trying to establish a direct relationship between the increase in the flow of guns in that direction and drugs. I assume you are telling us that clearly they are making a lot of money in drugs, and they are investing it in guns because it is a good way to make money over there.

Mr. McGuire. Yes.

Senator Domenici. But you are also speculating that much of the sale on the other side is to drug-related criminals who need guns.

Mr. McGuire. Yes, sir.

Senator Domenici. Thank you, Mr. Chairman.

OPERATION ALLIANCE STAFFING

Senator DeConcini. Last year, in response to questioning by Senator Domenici, you said that ATF put 25 staff years into Operation Alliance in fiscal year 1987, but no specific level of resources into Alliance in 1988.

Can you update us on the BATF's involvement in Operation Alliance, and what are you going to put in this year, what increase this year, and what about next year?

Mr. Higgins. We rolled 25 over and added 8 more, so in 1988, there will be 33 people involved in that program. If there are additional cases which generate additional need, we will continue to try to handle them, because Operation Alliance is a high priority program.

Senator DeConcini. What about 1989, what are you talking about?

Mr. Higgins. We intend to maintain 33 people in this program.

EXPLOSIVES DETECTION TECHNOLOGY

Senator DeConcini. Last year, Mr. Higgins, I asked you where we were with the state-of-the-art in explosive detection technology. Your answer indicated that the obstacles to making this type of equipment available for broad security applications was its large size, its weight, and its delicate circuitry.

My staff has met with representatives of a Massachusetts company that has apparently developed and is now marketing a 200-pound explosives sniffer that detects the nitrates in explosives and, we are told, can even detect plastic explosives. It has been tested in the Boston Airport and elsewhere with good results. It, apparently, would only cost $50,000 to $100,000 per unit.

Are you familiar with this technology?

Mr. Higgins. We are familiar with it.

Senator DeConcini. Does it work, and what are we doing about getting on top of that?

Mr. Higgins. We are basically familiar with these claims. I don't have anything more specific, and I don't know that Mr. McGuire does.

Mr. McGuire. No, sir.

Senator DeConcini. Do you have a program to work on this technology in your budget?

Mr. Higgins. No; we have not spent any resources in this area since 1979.

Senator DeConcini. Have you focused at all from the standpoint of management, that this might be a worthwhile area to convince OMB and the Secretary of the Treasury that some money should be put into research this, or to at least assess what is available?

This fascinates me. I don't know the company, and I don't want to promote them in excess of anybody else, but I just wonder why you haven't looked at it.

Mr. Higgins. The work that we have done has been in support of Federal Aviation Administration efforts. We would like to defer to the Department on that issue.

Mr. Simpson. Mr. Chairman, the Customs Service is looking into that. The same detectors can be used to detect narcotics, and the Customs Service is looking into that. We, at Treasury, are following this fairly closely. Customs, I am sure, will be glad to share the results with ATF.

Senator DeConcini. I guess my concern is, is anybody coordinating this and paying some attention to it so that it might be available to BATF.

Mr. Simpson. And Customs. Just for economy, we thought that we would let the staff there do it.

Senator DeConcini. What about FAA, are you working with them, because they are doing some, too. I can't remember how much, but there was some money allocated last year for them to work on this. Have you had any contact with them?

Mr. Simpson. We have had contact with FAA on metal detection. I am not sure exactly how extensive our contacts have been on the sniffers.

Senator DeConcini. Will you let us know, please?

Mr. Simpson. Yes, sir.

Senator DeConcini. What is the Customs Service doing to research and develop technology for the detection of contraband, particularly explosives and currency?

Mr. Simpson. I will have to supply that for the record.

[The information follows:]

The U.S. Customs Service currently has nine research projects directed toward the detection of contraband. One project is specifically aimed at the detection of hidden currency, five projects are directed toward the detection of narcotics and/or explosives, and three projects involve technologies which, while directed toward narcotics, could be adapted for the detection of explosives.

The nine projects are listed below with a brief synopsis:

CURRENCY DETECTION

Currency detection feasibility and development

Contractor: Ektron Applied Imaginag (A subsidiary of Kodak Co.).

Technique: Measures and detects magnetic material in paper currency.

NARCOTICS/EXPLOSIVES DETECTION

Mobile x-ray system

Contractor: American Science and Engineering.

Technique: To design, develop, and assemble a van containing a conveyor-fed x-ray system and image enhancement tools for the highly mobile inspection of cargo anywhere.

Imaging portable contraband detector

Contractor: Science Applications International Corp. [SAIC].

Technique: Uses backscattered radiation to detect and image hidden contraband.

Chemiluminescence

Contractor: Thermedics Inc.

Technique: Uses chemically induced fluorescence to detect nitrogen in narcotics and explosives.

Neutron diagnostic probe

Contractor: Consolidated Controls Corp.

Technique: Uses beam of high energy neutrons, which interact by colliding with suspect materials, to produce identifying gamma ray spectrum.

Thermal neutron activation

Contractor: Science Applications International Corp. [SAIC].

Technique: Uses cloud of low energy neutrons, which interact by absorption with suspect materials, to produce identifying gamma ray spectrum.

NARCOTICS DETECTION

Vapor preconcentration

Contractor: Argonne National Laboratories.

Technique: Exposes liquid with chemical affinity for narcotics/explosives to large volumes of air extracted for suspect vehicle/airplane/suitcase. Liquid is then distilled to produce highly concentrated sample of suspect contraband.

Vapor preconcentration

Contractor: Varian, Inc.

Technique: Uses the selective separation of gas chromatograph retention tube to isolate narcotics and explosives vapors for selective collection and concentration.

Microwave detection of narcotics

Contractor: San Diego State University Foundation.

Technique: Uses microwave absorption characteristics of water in flowers to detect narcotics hidden in flower boxes.

Senator DECONCINI. Mr. Higgins, I have one other question.

Senator DOMENICI. Could I ask a question on that issue?

Senator DECONCINI. Certainly.

Senator DOMENICI. Might I ask for your professional opinion, any of you, on the chairman's general question with reference to technology in that specific area that he referred to. Would you have an opinion as to whether or not the private sector or academia in the United States has a genuine enough interest in moving this kind of technology ahead where it is actually going to happen consistent with the rapid development of science, or should we be doing something to push it?

My hunch is there is enough profit to be made in finding the most current devices with the most current of science and, therefore, somebody is doing it. But I really sense that the question of the chairman is a relevant one. If that isn't happening, then obviously we ought to put all of you together and have you spend a little money in seeing that it is done.

What do you think; is science out there working on it?

Mr. HIGGINS. This is only an opinion, as you qualified it, but I think you have capsulized it. My impression is that there is enough money to be made and the people in the private sector are proceeding on that basis.

Senator DOMENICI. Thank you, Mr. Chairman.

DRUG TESTING

Senator DECONCINI. Mr. Higgins, as you know, the subcommittee played a major role in crafting the ground rules for the President's Drug Testing Program. Despite the setback in the courts on one of the union suits, the Federal drug testing program is proceeding rather well in terms of its compliance with the statutory conditions we placed on it.

Can you tell us about BATF's plan, how it is working; how much money is in your 1989 budget for drug testing; and whether you have brought ATF's plan into compliance with the HHS rules and guidelines?

Mr. HIGGINS. The only drug testing that we are doing now is to test new applicants for special agent positions. We were conducting tests when the statute passed, and we plan to continue to do so.

In terms of our overall plan for testing employees within the Bureau, we formulated a plan to expend $117,000 for fiscal year 1989 based on the guidelines outlined in legislation. The plan was provided to the Treasury Department for coordination and went from there to the Justice Department for review.

We are waiting for final approval back from the Department before we go ahead with the additional testing.

Senator DECONCINI. Do you know, Mr. Simpson, where that is?

Mr. SIMPSON. Perhaps Jill can answer that question.

Senator DECONCINI. Ms. Kent.

Ms. KENT. I believe your plan was in place prior to the enactment of the supplemental last year.

Mr. HIGGINS. Just for new special agent applicants.

Ms. KENT. I believe that we are almost cleared with the Department of Justice and the Interagency Coordinating Committee. The only plans that were being held back, because they were reviewed later, were the exempt plans.

Senator DECONCINI. Where are your plans cleared from, HHS?

Ms. KENT. Yes.

Senator DECONCINI. Have they been certified?

Ms. KENT. Not yet. However, they have been reviewed and approved by the Justice Department.

Senator DECONCINI. They have all been certified.

Ms. KENT. Not all of them. Some were not completed before the supplemental.

Senator DECONCINI. Those are all in compliance, the new ones?

Ms. KENT. Yes, sir; except for HHS clearance.

Senator DECONCINI. What about the ones that were in existence before?

Ms. KENT. They are basically more rigorous. We are working to ensure that there are no questions about them. The law enforcement bureaus have very robust drug testing plans.

Senator DECONCINI. Would you put that into a statement of some kind for us, explaining what the plans are, how many there are, and how many there were before, and the status of each one, and represent to us that they have been certified or that they are under consideration at HHS, or whatever the status is.

Ms. KENT. We certainly will, for the record.

Senator DECONCINI. Thank you.

Senator DOMENICI. Can they tell us how they are going to do it in general terms in that statement that you are going to give us, the sample, how you are going to go about enforcing the randomness, how many people you think will be involved, et cetera.

We could go over and get the plan, but if you are going to answer the chairman's question, would you add a little more meat to it in terms of us being able to see how it is going to work?

Ms. KENT. I would like to note that in the Treasury Department, responsibility has been delegated to each bureau to develop its own plan because the missions of the bureaus differ.

Senator DOMENICI. What I am interested in, and I don't know how many different plans you will have, but what will be the size of the testing designated population, how many employees will be tested each year, what is the estimated cost, those kinds of things. We had a lot to do with putting it together, so we can ask a lot of questions.

Ms. KENT. Yes, Senator.

Senator DOMENICI. Thank you very much.

[The information follows:]

STATUS OF TREASURY DEPARTMENT'S EMPLOYEE DRUG TESTING PLANS

Authority and responsibility for developing and implementing employee drug testing programs is found in Executive Order 12564 (September 15, 1986) and Title V of Public Law 100-71, FY 1987 Supplemental Appropriations Act (July 11, 1987). The Department has delegated to each bureau the responsibility to develop employee drug testing plans.

The Justice Department has reviewed and approved plans for nine Treasury bureaus--Comptroller of the Currency, Departmental Offices, Engraving and Printing, Federal Law Enforcement Training Center, Financial Management Service, Internal Revenue Service, the U. S. Mint, Public Debt, and Savings Bonds. Plans for these nine bureaus are currently pending with the Interagency Coordinating Committee.

The Department is working with the Justice Department to finalize comprehensive plans for Alcohol, Tobacco and Firearms, the Customs Service and the Secret Service. The Customs Service is currently testing all applicants tentatively selected for law enforcement positions. ATF is currently testing all external applicants tentatively selected for special agent positions.

1. Who will be tested?

Attached is a summary by bureau of the positions designated for random testing under approved plans.

2. If random testing is conducted, how will selections be made?

The plans provide that random testing will be accomplished by a statistically random sampling of employees based on a neutral criterion, such as social security numbers; or by uniform, unannounced testing of employees occupying a specified area, element or position.

3. When will the testing begin?

Under the FY 1987 Supplemental Appropriations Act, several conditions must be met before new testing can begin. The Secretary of Health and Human Services must make the certifications to Congress required by the Act, and must submit an analysis of the plans to Congress; HHS must publish final guidelines in the Federal Register; and OMB must submit an analysis of the anticipated costs to Congress.

Once the HHS guidelines are published in the Federal Register, bureaus must complete arrangements in accordance with the guidelines for specimen collection, testing and medical review of test results. In addition, prior to implementation, bureaus must meet their labor relations obligations under 5 U.S.C. Chapter 71. Since bureaus must comply with the Executive Order requirement to provide employees with a 60-day notice period prior to implementing the program, the earliest testing could begin is 60 days after these conditions are met.

4. How many people will be tested per year?

The attached summary by bureau states the number of random tests that will be conducted each year.

5. How will the tests be conducted and the results verified?

The bureau plans provide for professionally trained collection personnel, certified laboratories, rigorous analytical standards, quality assurance requirements, a medical review officer and strict confidentiality requirements. Once final HHS guidelines are issued, specific procedures for testing and verifying results will be developed in accordance with the guidelines.

DRUG-FREE FEDERAL WORKPLACE

DEPARTMENT OF THE TREASURY

Positions Designated For Random Testing

Comptroller of the Currency

Comptroller, Senior Deputy Comptrollers, Chief Counsel and their personal staffs; Deputy Comptroller and staff for Multinational Bank Examination; Deputy Comptroller and staff for International Relations and Financial Evaluation; employees who control the OCC computer systems; motor vehicle operators; and individuals involved in FEMA programs. (Twenty-nine random tests per year)

Departmental Offices

Presidential appointees, non-career executives, Schedule C employees, employees with access to compartmentalized classified information, employees involved in public health or safety functions, and employees involved in law and drug enforcement. (Thirty-eight random tests per year)

Bureau of Engraving and Printing

Director, Deputy Director, Assistant Directors, all managerial personnel and their secretaries; and, motor vehicle and forklift operators. (One hundred ninety-eight random tests per year)

Federal Law Enforcement Training Center

Director, Assistant Directors, Division Chiefs, employees with direct involvement with law enforcement training program development or delivery; employees responsible for security, safety or health of students/staff; individuals with access to classified matters; and employees responsible for development of policy relating to any of the above. (Sixty-six random tests per year)

Financial Management Service

Commissioner, Deputy Commissioner, Assistant Commissioners, and motor vehicle operators. (Four random tests per year)

Internal Revenue Service

Commissioner; Senior Deputy Commissioner; Deputy Commissioners; Assistant Commissioner and Deputy Assistant Commissioner (Inspection); Director, Internal Security Division; Assistant Commissioner and Deputy Assistant Commissioner (Criminal Investigation); Chief Counsel; Regional Inspectors; and, Special Agents and Internal Security Inspectors (Special Assignments). (One hundred sixteen random tests per year)

U.S. Mint

Presidential appointees, heads of field facilities, motor vehicle operators, security officials and police officers. (Ten random tests per year)

Bureau of Public Debt

Commissioner, Deputy Commissioner, Assistant Commissioner, and motor vehicle operators. (Nine random tests per year)

U.S. Savings Bonds Division

Executive Director, Deputy Executive Director, Special Assistant to the Director, and Public Affairs Specialist. (Two random tests per year)

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. I have no further questions here. We will submit some. Thank you very much, gentlemen, we appreciate you all being here.

If my friend would like to, we will go ahead and do the Federal Election Commission next so that you can ask your questions.

I don't have anything dramatic, but if you would like to, it would be fine.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

ORIGINAL BUDGET REQUESTS TO TREASURY AND OMB

Senator DeConcini: Mr. Higgins, your agency's original request to Treasury for fiscal year 1989 was $248.3 million. Treasury then pared that back to $236.1 million in its request to OMB. And, of course, OMB finally approved your current estimate of $218.5 million.

Can you tell us briefly now and in detail for the record, what BATF would have been able to do with a budget of $248.3 million; and at the Treasury-requested level of $236.1 million? What can't you do with the President's budget that you could at those levels?

Mr. Higgins: The Treasury request for ATF in the FY 1989 OMB budget was $225.3 million. At this level, gains made in the enforcement of the Comprehensive Crime Control Act in FY 1987 would be continued. Initiation of 2,000 additional compliance inspections would enhance Compliance Operations' ability to prevent prohibited persons— from obtaining licenses, increase the support extended to Law Enforcement programs aimed at reducing the criminal misuse of firearms, and assistance would be provided to ensure firearms dealers' records are sufficiently accurate to trace guns used in crimes. Law Enforcement initiation of 1,045 more cases against armed, habitual, career criminals who violate the Comprehensive Crime Control Act would continue to reduce the probability of violence perpetrated against the public.

In addition to the above, the agency requested level of $248.3 million enhancements in mission accomplishment would enable the Bureau to: (1) enhance the law enforcement community's ability to locate, process and analyze information relating to firearms, suspects, evidence and patterns of criminal activity through expansion of National Firearms Tracing Center staffing; (2) ensure greater accuracy of dealers' firearm sales records to support tracing of guns used in crimes through additional in-depth compliance inspections; (3) reduce danger to public safety and damage to property through increased inspections of explosive storage facilities which pose the greatest risk of accidental detonation; (4) improve the capability of law enforcement officials to trace the movement of explosives materials used for illegal purposes through increased inspections of licensees and permittees records; (5) advance Law Enforcement's convictions in the arson program through increased audit assistance in the explosives areas; and (6) reduce the number of persons who are unwilling or unable to comply with our alcoholic beverage excise tax collection requirements from entering the industry through additional qualification inspections.

EXCISE TAX COLLECTIONS

Senator DeConcini: In 1987, BATF assumed responsibility for collecting the excise taxes that it is responsible for enforcing. Before then, IRS had collected almost all of the taxes on a reimbursable basis. BATF reported a decrease of $471,000 in its budget submission as a one-time cost reduction associated with its takeover of IRS collections.

What procedure has BATF implemented for collecting the taxes previously collected by IRS?

Mr. Higgins: When the Bureau assumed responsibility for its taxes in July 1987, we decided it would be efficient to use a lockbox bank in collecting taxes and for processing tax returns and payments. The bank also performs significant data-entry services, mails our bills for special taxes and issues special tax stamp receipts. Use of a lockbox bank for these activities has led to the $471,000 decrease in tax processing costs.

In addition, Financial Management Service estimates that ATF's lockbox use saves the Government $1.9 million a year due to more timely processing of payments which has led to an average float reduction of 3.9 days.

Senator DeConcini: In fiscal year 1986, the last full year IRS collected the taxes, how much did ATF reimburse IRS for the collection function?

Mr. Higgins: ATF anticipated IRS billing of $1.2 million for 315,000 taxpayers' return processing and deposit costs. However, due to Gramm-Rudman-Hollings constraints, ATF did not reimburse IRS for these services.

Senator DeConcini: How much does BATF estimate the fiscal year 1989 collection function will cost?

Mr. Higgins: We estimate that collection costs will be $1.4 million in FY 1989. ATF will be mailing tax notices to 390,000 taxpayers as well as initiating actions to improve the data base and following up on delinquent taxpayers.

ARSON ENFORCEMENT

Senator DeConcini: Mr. Higgins, ATF is world-famous for its expertise in the crime of arson. You say in your budget statement that ATF provides assistance to State and local authorities through your four National Response Teams located in the Midwest, Northeast, Southeast, and the Western Regions of the country. The success of these teams is well-documented.

But I am concerned that your fiscal year 1989 budget may cause some cutbacks in your Arson Programs, including the Response Teams.

Can you tell us what will happen to your arson budget in fiscal year 1989 if we approve the President's request? Perhaps my concerns are overstated.

Mr. Higgins: The FY 1989 budget anticipates use of the same level of resources for arson investigations as those planned for FY 1988. The public safety issues implicit in arson cases require high priority action from ATF whenever arsons occur.

OCCUPATIONAL TAXES

Senator DeConcini: Your budget justifications indicate that there are approximately 300,000 delinquent special occupational taxpayers. As you know, GAO reported a 40 percent noncompliance rate with occupational taxes based on a four-state study. You say in your justifications that once ATF's new accounting system is fully automated, comprehensive efforts will be made to collect delinquent occupational taxes that should result in an additional $17 million in collections.

When will your accounting system be complete; how much do you intend to recover from delinquent taxpayers in FY 1989; and how is your matching program with IRS working to help your effort?

Mr. Higgins: We have had an interim accounting system in place since July 1987 when we assumed responsibility for our own taxes. The interim system is accurate and provides all required financial information, but it is unable to do complex comparisons with other databases.

ATF and contract personnel are working on our permanent accounting system, which will be completed in 1988 and include special tax and other databases. Currently, we are contacting state liquor agencies to obtain electronic listings of retail dealers. Delinquent taxpayers will then be identified by an automated comparison of state listings with the special tax database.

At current resource levels, we could begin making these automated comparisons as early as February 1989. Due to this late start, we estimate that only about ten percent of the delinquent taxpayers will be contacted and collection completed in FY 1989. The total to be recovered from delinquent taxpayers, including penalties and interest, will be $17 million.

IRS has provided a list of retail dealers who possibly owed special tax. Unfortunately, we have been unable to use the listing because it included errors and inconsistencies which would have resulted in numerous erroneous billings. For example, it listed many restaurants which do not deal in alcoholic beverages.

CUTS IN FIREARMS BUDGET

Senator DeConcini: Your budget justifications show that BATF intends to cut 216 positions and nearly $6 million out of its Firearms program -- cutting both Compliance Operations and Law Enforcement. The Firearms program, according to your justifications, focuses on domestic and international arms trafficking, including trafficking by known international and domestic terrorist groups, organized crime, and armed-career criminals. Frankly, I see this part of the agency's mission as perhaps the most important and one that should be increased -- not cut.

Why are you cutting back the BATF firearms budget, especially since this Committee directed you to put more positions and money into the Armed Career Criminal Apprehension program this year?

Mr. Higgins: The continuing resolution for FY 1988 included additional positions to enforce provisions of the Comprehensive Crime Control Act. The development of the FY 1989 budget with lowered resources required some difficult decisions on reductions. However, we will continue high priority initiatives in support of the Armed Career Criminal Apprehension Program and defer 10 percent of the lower priority Law Enforcement investigations and 18 percent of the lower priority Compliance Operations inspections.

Senator DeConcini: What was your initial request to OMB for firearms programs and particularly the Armed Career Criminal program?

Mr Higgins: The FY 1989 initial request for the Law Enforcement firearms program was $86.4 million and 1,132 full-time equivalent positions, and $7.6 million and 134 full-time equivalent positions for the Compliance Operations firearms program. Of this amount $11.5 million and 224 positions were for the Armed Career Criminal program.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

SPECIAL OCCUPATIONAL TAXES

Senator Domenici: The Omnibus Reconciliation Act of 1987 extends and increases certain alcohol, tobacco, and firearms special occupational taxes.

What additional revenues will be generated in each of fiscal years 1988 and 1989 as a result of the 1987 Reconciliation Act special occupational tax changes?

Mr. Higgins: For FY 1988, there will be two collections. The first one, with payments due by April 1st, is necessary because the new special tax rates were increased in mid-year. The second will be a full-year collection with payments being made by July 1st. Total additional revenues will amount to $115 million.

For FY 1989, there will be one collection with payments due by July 1, 1989, resulting in an additional $97 million being collected.

Senator Domenici: What are the projected total receipts for each of fiscal years 1988 and 1989 from these special occupational taxes, as reflected in the President's Fiscal Year 1989 budget?

Mr.Higgins: Total receipts will be $135 million for FY 1988 and $117 million for FY 1989.

Senator Domenici: How are these tax collections accounted for -- is there a separate Treasury account in which these tax collections are deposited?

Mr. Higgins: On July 1, 1987, the Bureau took over the deposit and accounting functions for its own taxes. Prior to that time, IRS performed these activities for ATF.

Special occupational taxes are accounted for separately in ATF's internal accounting records. The tax collections, however, are deposited into one Treasury account along with all other ATF excise tax collections.

Senator Domenici: What are the fiscal year 1988 and 1989 costs to ATF of administering these new occupational taxes?

Mr. Higgins: Bureau costs to administer special taxes are expected to be $1.6 million in FY 1988 and $1.4 million in FY 1989. Costs are higher in FY 1988 due to one-time expenses incurred to implement the mid-tax-year collection required by the new tax law.

Most of the administrative costs are associated with mailing out bills to taxpayers and issuing stamps after payment. Also included are costs for issuing regulations, developing forms and program monitoring. In both years, but especially in FY 1989, an increasingly greater portion will be field costs for inspectors and regional office specialists who will be involved in making collections from delinquent taxpayers.

Senator Domenici: I note from your justification that the Bureau estimates there are approximately 300,000 delinquent special occupational taxpayers. What is the estimate of the amount owed by these delinquent taxpayers?

Mr. Higgins: We estimate that $75 million is owed by these delinquent taxpayers since most of then are retail dealers which pay $250 a year.

Senator Domenici: What are you doing to collect these unpaid taxes and what would it cost to "beef up" your delinquent tax collection efforts?

Mr. Higgins: We are developing a special tax database and making other efforts to identify delinquent taxpayers. The chief obstacle to collecting unpaid taxes is a special tax database that is not complete. We estimate between 35 and 40 percent of the retail dealers who have not paid special taxes are not included in the database. We are initiating contacts with State agencies, which license these dealers, to identify all retailers who should pay special tax. This effort, however, is not expected to be completed for three or four years.

Senator Domenici: Are any of the administrative costs associated with increased tax collection efforts included in your fiscal year 1989 budget request?

Mr. Higgins: Yes. We did ask for a small increase for tax collection efforts. That increase, however, would only allow us to contact about ten percent of the delinquent taxpayers in FY 1989. The remaining delinquent taxpayers would be reached in subsequent years.

Senator Domenici: How are you dealing with a taxpayer who has been found to be delinquent in paying these taxes for a period of years?

Mr. Higgins: When we collect delinquent taxes, we also collect penalties and interest. While there are provisions for abating penalties, ignorance of the law is not included. There is no provision for abating interest.

Unfortunately, penalty and interest due can add up to more than the delinquent tax due. For example, a dealer who owed delinquent taxes for 10 years would pay, under the old rates, $540 in taxes, but $721 in penalties and interest. Under the new rates, these amounts would be $2,500 in taxes and $3,337 penalties and interest.

Senator Domenici: Are you experiencing any other tax collection problems?

Mr. Higgins: No, the special tax database is our main concern at this time.

CURRENT STAFFING LEVEL

Senator Domenici: The fiscal year 1988 Further Continuing Appropriations Act requires ATF to maintain a 3,451 full-time equivalent position base level in fiscal year 1988. Are you now staffed at this level? If not, what is your current staffing level?

Mr. Higgins: The Bureau is not currently staffed at the 3,451 FTE level. The current projected staffing level as of February 1988 would generate 3,246 FTEs. Hiring delays have been experienced due to late receipt of our FY 1988 Appropriation funding and the time required to complete lengthy background investigations prior to hiring.

ARMED CAREER CRIMINAL PROGRAM

Senator Domenici: What staffing level for the Armed Career Criminal Apprehension program is provided for in your fiscal year 1989 budget request?

Mr. Higgins: The FY 1989 staffing level is 69 full-time equivalent positions.

FIREARMS PROGRAM

Senator Domenici: Your fiscal year 1989 budget request proposes a program reduction of 216 average positions below fiscal year 1988. I note this principally involves a reduction in the Bureau's firearms activities -- a decrease of 73 average positions in firearms compliance operations and a decrease of 132 average positions in your firearms enforcement program.

In terms of firearms compliance, I note that your fiscal year 1989 request includes an 18.2 percent reduction in compliance inspections being initiated in fiscal year 1989, 2,000 below fiscal year 1988.

What is the reason for this reduction?

Mr. Higgins: In the FY 1988 Continuing Resolution (P.L. 100-202), Congress added approximately 70 positions above the levels requested by the President to enforce provisions of the Comprehensive Crime Control Act. In an effort to reduce overall Federal spending and meet the Budget Summit targets, these added positions are not proposed to continue in FY 1989. However, the Bureau will continue to use its latitude to redirect compliance resources to areas of critical need as it has done in the past. High priority on-site inspections of persons and businesses in the firearms industry will be conducted.

Senator Domenici: You point out the increasing use of firearms in criminal acts, the increasing number of firearms cases, and the critical nature of the Bureau's firearms program, yet the fiscal year 1989 request proposes a 132 average position reduction for this program and a 9.8 percent reduction in firearms cases initiated in fiscal year 1989 as compared to fiscal year 1988. What is the rationale for the reductions proposed?

Mr. Higgins: In the FY 1988 Continuing Resolution (P.L. 100-202), Congress added approximately 130 positions above the levels requested by the President to enforce provisions of the Comprehensive Crime Control Act. In an effort to reduce overall Federal spending and meet the Budget Summit targets, these added positions are not proposed to continue in FY 1989. However, it should be noted that the President's Budget for firearms enforcement reflects an increase in funding in this program of 22 percent above FY 1987 levels. With the resources requested, we fully expect to conduct those high priority complex investigations involving armed career criminals and drug traffickers who violate the Comprehensive Crime Control Act.

Senator Domenici: What additional funding would be required in fiscal year 1989 to maintain the fiscal year 1988 funded average position level for ATF?

Mr. Higgins: In order to maintain the 3,451 full-time equivalent positions authorized by Congress in FY 1988, the Bureau would need a total of $233.7 million. This represents an increase of $15.2 million above the President's budget for FY 1989.

CONSOLIDATED INFORMATION SYSTEM

Senator Domenici: The fiscal year 1989 request includes an additional $1.2 million for the Bureau's Consolidated Information System (ACIS). I understand that this will complete ATF's three-year upgrade of its automated data processing systems and that additional funding will not be required next year. Is that correct?

Mr. Higgins: The additional resources of $1.2 million for FY 1989 will complete the final phase of the three-year Automated Consolidated Information System (ACIS) upgrade. At this time, no additional resource requirements are anticipated to support this plan.

DRUG TRAFFICKERS

Senator Domenici: You mention that 40% of ATF firearms defendants are targeted drug traffickers. How does this compare with previous years? Are we seeing an increase in this area?

Mr. Higgins: A review of our accomplishments reveals that the number of ATF defendants who are identified as drug traffickers has remained consistently at or near 40 percent of the total number of firearms defendants recommended for prosecution. Our records reflect that for FY 1987, 39.9 percent of the firearms defendants recommended for prosecution were identified as drug traffickers. For FY 1986, that figure was 41.2 percent.

With the emphasis ATF is now placing on 18 U.S.C. 924(c) violations, we anticipate this percentage will increase in coming years.

INTERNATIONAL TRAFFICKING IN ARMS (ITAR)

Senator Domenici: Of your cases involving illicit firearms traffic across U.S. borders, what number involve firearms trafficking to Mexico?

Mr. Higgins: In FY 1987, ATF investigated a total of 244 ITAR cases. Our most recent study indicates that 49 percent of our ITAR cases have involved firearms trafficking to Mexico.

SECRET SERVICE SUPPORT

Senate Domenici: What number of ATF personnel are being detailed to the Secret Service in each of fiscal years 1988 and 1989 to assist the Service in its 1988 Presidential campaign protection responsibilities?

Mr. Higgins: For the 1988 Presidential campaign, the Secret Service has requested 750 ATF special agents who have been trained in protective detail methods. This level of effort equates to 120 FTEs in FY 1988 and 26 FTEs in FY 1989.

FEDERAL ALCOHOL ADMINISTRATION ACT

Senator Domenici: The fiscal year 1988 appropriation earmarks $15 million for ATF to administer the Federal Alcohol Administration Act.

Is this consistent with your actual expenditures for this purpose?

Mr. Higgins: The $15 million was initially earmarked in the FY 1985 budget, and has continued to be earmarked at that level in the succeeding years. However, due to normal operating cost increases, plus growth in the industry-related workload, this amount is no longer consistent with our actual expenditures. The actual costs associated with enforcement of the Act in FY 1987 was $20 million.

Senator Domenici: If this requirement is continued, what would you estimate the fiscal year 1989 funding requirement for administering this Act to be?

Mr. Higgins: We would require a minimum of $20 million to administer the Federal Alcohol Administration Act at essentially the same level in FY 1989.

QUESTIONS SUBMITTED BY SENATOR ALFONSE M. D'AMATO

ARMED CAREER CRIMINAL PROGRAM

Senator D'Amato: How many agents are involved in ATF's Repeat Offender Program? How many cases were initiated per year, and how many defendants are involved in those cases?

Mr. Higgins: Commencing in FY 1987, ATF initiated Project Achilles, a Bureau-wide law enforcement program directed at identifying, investigating, and prosecuting repeat offenders or those individuals who qualify for mandatory and enhanced sentencing under 19 U.S.C. section 924(e). The number of special agents currently dedicated to Project Achilles investigations is 189. Fiscal Year 1988 projections indicate that 800 cases will be initiated, resulting in 250 defendants being recommended for prosecution. It is anticipated that these defendants will be convicted.

Additionally, during FY 1987 and the first quarter of FY 1988, 2,486 repeat offender suspects, all of whom had prior felony convictions, were charged with Federal firearms law violations.

Senator D'Amato: Do you have any data showing your conviction rate?

Mr. Higgins: Current criminal statistical data establishes a 96.3 percent suspect conviction rate for firearms cases that were adjudicated during FY 1987.

JAMAICAN POSSES

Senator D'Amato: Can you tell us what type of national strategy is planned to combat Jamaican organized crime groups?

Mr. Higgins: ATF will continue to solicit the support of Federal, State, and local law enforcement authorities to participate in the task force approach, under the auspices of the Organized Crime Drug Enforcement Task Force (OCDETF) Program to combat the problem of Jamaican organized crime. ATF is currently involved in 23 Jamaican Organized Crime Task Forces nationwide.

ATF will also continue to be the clearing house for information as it relates to Jamaican organized crime for all law enforcement agencies. The Jamaican organized crime problem is not a local or a regional problem, but a national problem. Speed, communication, and coordination among law enforcement agencies is essential in Jamaican organized crime investigations. ATF's ability to supply pertinent information on a short notice has greatly contributed to several of these investigations.

ATF will continue to originate and coordinate national initiatives to help combat the growing problem of Jamaican organized crime.

Senator D'Amato: Does the Comprehensive Crime Control Act impact on these posses?

Mr. Higgins: Yes, especially the amendments to the Act in 1984. One of the most effective statutes ATF is using to combat the Posse problem is section 924(c) under the Comprehensive Crime Control Act. This statute addresses the use of firearms during the commission of a drug trafficking crime and calls for a minimum mandatory sentence which must run consecutively with the narcotics sentence. The Posses' methods of operation make them very susceptible to prosecution under this statute.

In 1987, the majority of the 131 criminal cases that ATF prepared against 267 posse members alleged violations of the Comprehensive Crime Control Act. During the arrest of those subjects and/or related to those arrests, ATF seized 518 firearms.

Senator D'Amato: Is the U.S. the only country with major posse problems?

Mr. Higgins: No, the Posses are also operating in Canada (Montreal, Toronto), Great Britain (London), and Jamaica. In Great Britain, Posse members are referred to as "Yardies." ATF works closely with law enforcement authorities in all of the affected countries. The exchange of information with these countries has resulted in successful prosecution of Posse members, both here and abroad.

The extent of the problem is much more severe in the United States than it is in other countries, but it appears that the problem is growing in those countries as well.

Senator D'Amato: Have you been in contact with the Jamaican Embassy and are you getting support from the Jamaican Government?

Mr. Higgins: Yes, ATF immediately notifies the Jamaican Embassy any time we arrest a Jamaican foreign national. ATF has also briefed the Embassy on the extent of the Jamaican Posse problem here in the United States and has supplied them with statistical data to support ATF's assessment.

ATF also works with the Jamaican Government as our investigations dictate. ATF's original Jamaican Posse investigation resulted from a request from the Jamaican Government to trace firearms seized in Jamaica. During one of ATF's investigations, for example, arrangements were made for Jamaican officials to interview an ATF defendant who purchased a firearm used to kill a Jamaican police officer.

TRAINING AND AID TO FOREIGN LAW ENFORCEMENT PERSONNEL

Senator D'Amato: 22 U.S.C. 2420 (A) restricts the ability of the United States to "provide training or advice, or provide any financial support, for Police, Prisons, or other law enforcement forces for any foreign government or any program of internal intelligence or surveillance on behalf of any foreign government within the United States or abroad." What training are you permitted to provide to foreign Law Enforcement personnel in support of our anti-drug effort?

Mr Higgins: Since ATF has no jurisdiction over the enforcement of this country's drug laws, we have not been involved in providing anti-drug training to any foreign governments or law enforcement agencies. Therefore, the limitations mentioned in this question with regard to such training do not directly apply to us. We have, on a few occasions and at the request of the Department of State, participated in that Department's Anti-Terrorism Assistance Program by conducting seminars for foreign police officials relative to ATF's mission and enforcement responsibilities. In 1987, seminars were conducted in Manila, Philippines, and in Bogota, Colombia. Additional seminars are scheduled in four countries during 1988. The cost of these seminars is reimbursed by the Department of State.

Senator D'Amato: Have you considered requesting changes in our law that would permit us to give more training and aid to foreign police forces?

Mr. Higgins: We would support such an initiative in the name of cooperative law enforcement; however, we have not considered requesting such changes.

Senator D'Amato: The major exception to the prohibition in 22 U.S.C. 2420 (A) is "with respect to assistance rendered under section 3763 (C) of title 42, with respect to any authority of the Drug Enforcement Administration or the Federal Bureau of Investigation which relates to crimes of the nature which are unlawful under the law of the United States or with respect to assistance authorized under section 2291A of this title." Is this exception broad enough to allow us to train foreign customs officers or other law enforcement personnel in drug law enforcement techniques?

Mr. Higgins: ATF has no jurisdiction pertaining to the enforcement of this country's drug laws, and we would not be the appropriate agency to provide the training mentioned in this question.

DECREASES IN BUDGET AUTHORITY

Senator D'Amato: Budget Justification, Page 1: Permanent positions established for FY 1989 will be reduced by 255 positions from FY 1988 levels. How will this effect your overall operations, particularly in light of our escalating crime problem?

Mr. Higgins: In fiscal year 1989 the Bureau will redirect Compliance Operations and Law Enforcement resources to the most critical areas as follows: (1) High priority on-site inspections of persons and businesses in the firearms industry and complex investigations involving armed, habitual, career criminals and drug manufacturers who violate the Comprehensive Crime Control Act will continue to be conducted; (2) Compliance Operations will continue to support Law Enforcement by selectively targeting inspections in high crime and border locations where serious problems involving firearms and drug violations often occur; and (3) Law Enforcement will also continue to selectively target its investigative efforts against organized crime associates, criminal traffickers who supply terrorists and the criminal element with weapons, terrorist/hate groups, outlaw motorcycle groups, drug traffickers and international illegal arms traffickers.

By shifting resources to those high priority areas, ATF will be able to maintain a viable firearms program. However, the Bureau will still experience reductions in both Compliance Operations inspections initiated (18 percent) and Law Enforcement cases initiated (10 percent) resulting from internal realignment of resources.

Senator D'Amato: Budget Justification, Page 5: The Compliance Operations Firearms Section is being decreased by $3,195,000 and 73 positions.

How will this affect the enforcement of firearms statutes with respect to your field inspection program which identifies criminals who illegally purchase firearms?

Mr. Higgins: As you point out, one of our goals in the firearms inspection program is to identify criminals and other persons who illegally purchase firearms. The proposed decrease reduces the number of compliance inspections we would plan to conduct by 2,000 inspections equating to 18 percent. However, given the Bureau's latitude to redirect compliance resources to areas of critical need, high priority on-site inspections of persons and businesses in the firearms industry will continue to be conducted.

Senator D'Amato: Budget Justification, Page 10: "Investigative priorities are focused on domestic and international arms trafficking, including trafficking by known international and domestic terrorist groups, organized crime, and armed, habitual, career criminals."

It appears that the Law Enforcement Section will absorb a great deal of your proposed decreases (a loss of 143 average positions). How will this loss affect the above-mentioned investigative priorities?

Mr. Higgins: ATF will continue to focus on domestic and international arms trafficking, individuals involved in terrorist groups, organized crime, and armed, habitual career criminals. This will be accomplished by giving higher priority to these types of investigations. However, because of the loss of the 132 full-time equivalent (FTE) positions in the firearms program, ATF will not initiate approximately 1,045 cases, and 529 suspects will not be recommended for prosecution. This is a total decrease of 9.8 percent when compared to FY 1988. The remaining 11 FTE positions will be eliminated because responsibility for enforcement of the contraband cigarette program will be transferred to the States.

STATE AND LOCAL ASSISTANCE

Senator D'Amato: Budget Justification, Page 9: It states that you provide assistance and state-of-the-art training to Federal, state and local law enforcement agencies.

Please explain how you have assisted state and local law enforcement agencies.

Mr. Higgins: Under the ATF Firearms Enforcement Program, ATF has devoted a significant portion of our efforts towards assisting State and local law enforcement agencies. For example, the majority of firearms traces conducted by our National Firearms Tracing Center in Washington, D.C., are conducted in response to requests from State or local law enforcement agencies. Percentages are not yet available for FY 1987. However, during 1986 approximately 80 percent of the 30,629 firearms tracings completed by the Tracing Center were for State or local law enforcement agencies.

A significant number of our firearms investigations originate with a request for assistance from State and local law enforcement agencies. Frequently, State and local officers discover serious violations of law by violent criminals. In many instances, ATF has assisted the State or local agency by conducting an investigation concerning the Federal firearms violation resulting in Federal prosecution of the suspect who would otherwise not be subject to prosecution. Because of a lack of resources, expertise or jurisdictional authority, State or local agencies frequently refer such violations to ATF for joint investigation.

We also provide arson investigation and training assistance to State and local personnel. We provide assistance in arson investigations by selectively supplying manpower, resources, and equipment to those arson situations that are beyond the capabilities of the local authorities to adequately resolve. From 1979 through 1987, we have investigated a total of 4,474 arson incidents which resulted in 450 deaths, 1,680 injuries and property damage in excess of $2.54 billion. During that time, we submitted 1,297 cases recommending 2,785 defendants for prosecution.

In addition, we provide a two-week training school three times each year to State and local investigators. State and local prosecutors receive a one-week training school which is given five times each year. Funding for this school through a grant from the Bureau of Justice Assistance was not renewed for FY 1989 due to budget cuts. We also provide the material for an abbreviated three-day version of the two-week school to our field personnel, who in turn conduct the training for local officers who are unable to attend the school in Glynco, Georgia.

Between 1982 and 1987, we have trained approximately 618 State and local investigators in the two-week school in Glynco. Between 1978 and 1987, we have been able to train approximately 1,650 others in the three-day program.

To further assist the State and local personnel in combatting arson and in furthering and promoting cooperation and understanding between the law enforcement community and the private sector, ATF conducts one or two schools per year for insurance supervisory and investigative personnel. These one-week schools are funded entirely from registration and course fees paid by participants. Three classes have been conducted to date with a total of 72 trainees.

Additionally, in support of the Explosives Enforcement Program and as a part of ATF's commitment to assist State and local law enforcement, the Advanced Explosives Investigative Techniques (AEITC) course of instruction presented at Glynco, Georgia, was initiated in 1982. To date, 650 State and local officers have attended this program of instruction. The course, originally developed in conjunction with the International Association of Bomb Technicians and Investigators (IABTI), is considered "state-of-the-art" in post-blast investigation and possesses an enviable reputation.

In order to develop relationships which contribute to more effective law enforcement and to assist State and local agencies in training for undercover activities, in FY 1982 ATF initiated the development of the Undercover Investigative Techniques Training Program. This program is conducted by ATF at the Federal Law Enforcement Training Center, Glynco, Georgia, under the auspices of the National Center for State and Local Law Enforcement Training. Its objectives are to permit the participants to identify the legal, operational, physical, and mental requirements of an undercover operation; to perform those requirements in a safe and successful manner; and to develop additional expertise and techniques through an exchange of information at various operational levels.

Since its inception, more than 360 State and local law enforcement officers representing each of the continental States, plus Alaska, have successfully participated in this program. The state-of-the-art training they received from ATF provides them with the tools necessary to function effectively in this demanding facet of police work.

ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE

Senator D'Amato: Budget Justification, Page 9: You are a participant in the Organized Crime Drug Enforcement Task Force.

Please explain how you assisted this task force in the suppression of large-scale narcotics trafficking. How have you coordinated with other task force agencies such as the FBI?

Mr. Higgins: Our participation and support of the Organized Crime Drug Enforcement Task Force (OCDETF) dates back to 1982, when it was formed. Law Enforcement presently supports and participates in the task force with 105 full time employees (FTE) stationed in the OCDETF core cities and throughout the United States. In addition, agents are also assigned on a part-time basis to assist the task forces in meeting investigation requirements. In FY 1987, a total of 149 FTEs were expended for this program.

During the past few years, firearms violations and violence have occurred more frequently and been found to be the narcotics trafficker's tools of the trade. Firearms are utilized by the traffickers in their illegal enterprises for purposes of intimidation, protection, enforcement and bartering. With the increasing numbers of narcotics traffickers organizations and their propensity for violence and misuse of firearms, ATF has found them to be extremely vulnerable to the Federal firearms and explosives statutes.

During fiscal year 1987, ATF special agents assigned to OCDETF participated with other Federal law enforcement agencies in OCDETF investigations, recommending 574 narcotics-related defendants for prosecution and seizing 1,723 firearms, 21,000 rounds of ammunition, and 46 pounds of explosives. During the first quarter of 1988, ATF special agents assigned to OCDETF have recommended 249 narcotics-related defendants for prosecution, and have seized 2,205 firearms, 10,510 rounds of ammunition, and 29 pounds of explosives.

Recent OCDETF investigations coordinated with other task force agencies include:

Operation Rumpunch - ATF, under the auspices of OCDETF and in direct coordination with other Federal, State, and local law enforcement agencies, has led and coordinated a national law enforcement initiative against violence-oriented organized criminals from Jamaica, commonly referred to as Jamaican Posses. This investigation gained momentum on October 19, 1987, when ATF coordinated the nationwide roundup of over 200 Jamaican Posse members in 16 major metropolitan areas. Subsequently, ATF special agents have initiated numerous additional OCDETF-approved investigations and established 23 mini-task forces comprised of Federal, State, and local law enforcement agencies across the country to further attack the problem. ATF is experiencing daily success in this national investigation of Jamaican Posses.

Hells Angels - On November 10, 1987, under the auspices of the OCDETF, ATF and FBI agents arrested 31 members of the Hell's Angels Motorcycle Club on various Federal narcotics, firearms and explosives violations. The simultaneous raids in California, Alaska, North Carolina, South Carolina and Kentucky were the culmination of a two-year OCDETF investigation.

Teams of ATF and FBI agents, assisted by State and local law enforcement agents, executed a total of 40 search warrants. Seized as a result of these warrants were 175 firearms, 27 pounds of explosives, 1 pound of cocaine, 30 pounds of methamphetamine, $3 million in cash, precious metals valued at $500,000 and a 1987 vehicle.

El Rukn - On November 24, 1987, in the Northern Judicial District of Illinois, five El Rukn gang leaders were found guilty of conspiring with each other and the country of Libya to use explosives to destroy property in the United States.

The verdict was the direct result of a lengthy ATF initiated task force investigation. The investigation was coordinated with the FBI and the Chicago Police Department and utilized Title-III intercepts, the reverse sale of a Light Anti-Tank Weapon System rocket, and Federal search warrants.

An additional trial of 20 El Rukn members involving murder, narcotics, and firearms violations will begin in late 1988.

ILLEGAL MACHINE GUNS

Senator D'Amato: Budget Justification, Page 9: It states that the Bureau tries to reduce the incidence of possession, sale and availability of illegal machine guns.

How widespread is the sale of illegal machine guns?

Mr. Higgins: The illegal trafficking of machine guns is a nationwide problem that continues to plague law enforcement. All of the 22 ATF law enforcement district offices located across the United States are involved in criminal investigations related to sales of illegal machine guns on a recurring basis. Investigations initiated during fiscal years 1986 and 1987 involving illegal sales, possession, and manufacture of machine guns, resulted in over 3,600 contraband machine guns being seized and taken into ATF custody.

Senator D'Amato: What can we do to combat this problem?

Mr. Higgins: According to all sources, firearms continue to be the dominant weapon used in the commission of violent crimes throughout the United States. This is certainly a growing concern to law enforcement authorities. ATF possesses the capability to identify various types of firearms trafficking operations, including the illegal sales of machine guns. ATF will continue to combat the problem of illegal machine gun sales by continuing to aggressively enforce the Gun Control Act. As part of its enforcement policy, ATF provides leadership in the daily fight against firearms traffickers by working closely with State and local law enforcement. This leadership role is demonstrated through such activities as firearms tracing, firearms technology, laboratory examinations, specialized training and participation in task forces. Although ATF alone cannot investigate all firearms violations, the criminal misuse of machine guns has been effectively combatted by targeting for prosecution violent and dangerous criminals or organizations and traffickers of firearms.

FEDERAL ELECTION COMMISSION

STATEMENT OF THOMAS J. JOSEFIAK, CHAIRMAN

ACCOMPANIED BY:

DANNY LEE McDONALD, VICE CHAIRMAN
LEE ANN ELLIOTT, COMMISSIONER
JOHN C. SURINA, STAFF DIRECTOR
LAWRENCE M. NOBLE, GENERAL COUNSEL

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. We will take out of order right now the Federal Election Commission, I believe they are all here. We are delighted to have Thomas J. Josefiak, the Chairman of the Federal Election Commission and Mr. Danny McDonald, Vice Chairman of the Commission, who will present the agency's prepared statement. They will be accompanied by Ms. Lee Ann Elliott, Commissioner, Mr. John Surina, Staff Director, and Mr. Lawrence Noble, General Counsel.

Let me ask you to summarize your statement. The Senator from New Mexico has to leave and he has some questions. Your full statement will appear in the record, if you would care to make any introductions.

Mr. JOSEFIAK. Thank you, Mr. Chairman.

On behalf of the Commission, I would like to take this opportunity to thank you for allowing us to present our fiscal year 1989 budget this afternoon. Danny Lee McDonald, who is the Vice Chairman of the Commission, will present the testimony.

Sitting with me at the table is Lee Ann Elliott who is a member of the Finance Committee. You have already mentioned Larry Noble and John Surina. We do have in the audience Commissioner John McGarry, Commissioner Joan Aikens, and Commissioner Scott Thomas.

Before I allow Commissioner McDonald to get into the testimony, I would like to take this opportunity, on behalf of the Commission, to thank you for your support in getting our full funding for last year's budget.

1988 PRESIDENTIAL ELECTION

As we all know, in this Presidential election, there has been much activity. We discussed this last year. Just to give you an example, we have already certified public funds in the amount of $42 million to 14 candidates, and this is in comparison to $36 million during the entire primary process in 1984 for 12 candidates. We have given the political party committees $18.4 million to be precise to fund the conventions.

We have also set aside $92 million for the general election campaigns for both nominees.

SUMMARY OF STATEMENT

Senator DeConcini. Mr. McDonald, if you would summarize your statement.

Mr. McDonald. I will be very, very brief—as Senator Domenici has some questions, as he indicated earlier—so that we can get right to them.

BUDGET OVERVIEW

We are pleased to say that we have an agreement with OMB on our budget. Our budget request is for $15,433,000. Basically, it reflects increases in two areas over what we had previously.

The first is in the Office of General Counsel in which we have asked for six additional staff so that we might be able to more quickly turn around the cases that we are involved in.

The second, and fairly dramatic increase, is in the area of ADP. We are hopeful that we can have up-to-date computer operations in place by next year. That runs right at $1 million.

As you will note in our testimony, the money would be earmarked specifically for ADP. It would not be used for anything else. Any of the moneys that are not used will be refunded to the Treasury. The $1 million figure is a rough estimate. It is the best figure that we could come up with at the present time, but it is a rough estimate because a lot depends on the marketplace, and what sort of things we might be able to install. It would also depend on what we are able to receive from Congress.

PREPARED STATEMENT

We think that it will make a significant difference in the workings of the Commission. As I said, it is somewhat unusual that we would get this kind of support from OMB, particularly in the budget climate that we now have going on. I think that it even indicates more the soundness of the arguments that we made.

Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF DANNY LEE McDONALD

Mr. Chairman, as noted by Chairman Josefiak, it is my responsibility and pleasure to represent the Commission before its authorization and appropriation committees in support of our fiscal year 1989 budget request.

At the outset, I should note that we have again, for the fourth straight year, reached an accord with the Office of Management and Budget on a figure for inclusion in the President's budget. In part, this reflects an objective and reasonable, yet hard-nosed and stringent review by OMB of our request and a willingness to conduct good faith negotiations with the Commission. More importantly, however, it demonstrates how compelling the merits of our case are. It is no secret that OMB staff today, more than ever, are directed to cut agency requests wherever possible to achieve deficit targets. Our original budget request for fiscal 1989, concurrently submitted to OMB and the Congress on September 1, 1987, was for $15,930,000 and 265 staff years. Through a process of negotiation, we have mutually agreed upon a dollar figure of $15,433,000 and 264 full-time equivalent staff. In a moment, I will explain how we intend to employ these resources.

First, however, I must restate the obvious. We are in a Presidential Election year. The election itself and most of the resultant compliance actions of the election actually occur in fiscal year 1989. By all indications, the 1988 elections will confront the Commission with its greatest challenge ever.

For the first time in the short history of this law, both major party Presidential primaries are wideopen contests. We are faced with more candidates, campaigning over a longer period of time, and reporting contributions and expenditures of greater sums of money (both public and private) than ever before. Our first payout of matching funds on January 4 totalled more than

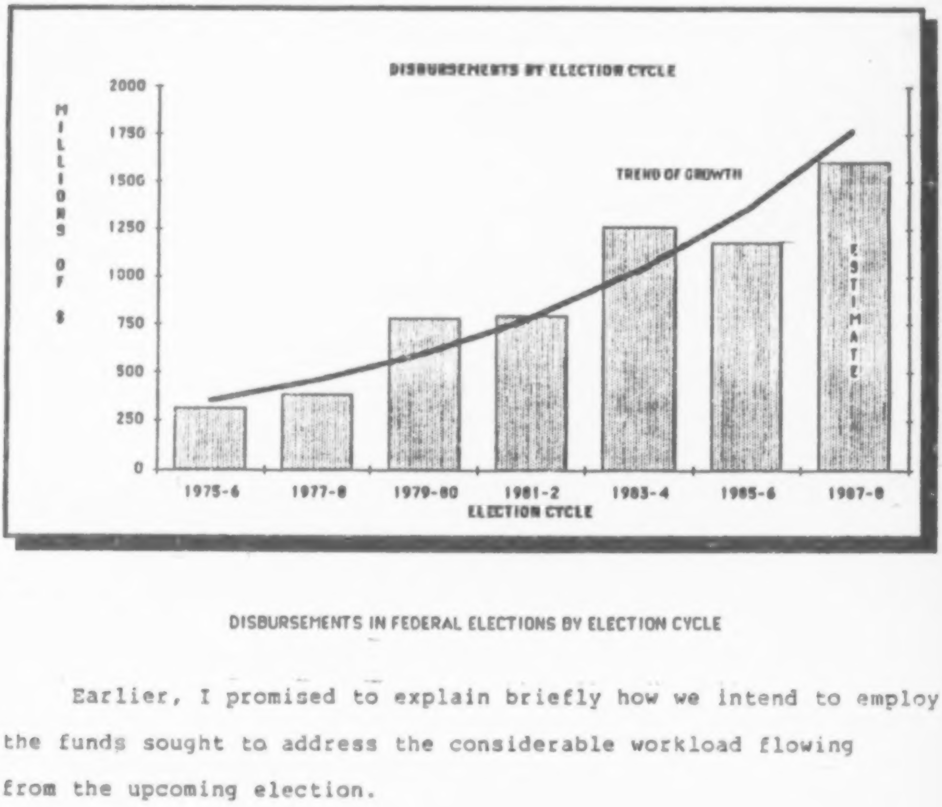
$25 million. The comparable first installment in 1984 was under $7 million. Public interest (and candidate interest) in the 1988 elections began even before the 1986 elections were held. Beyond the many administrative and regulatory requirements of Title 26, the Presidential campaigns are subject to the same disclosure and substantive requirements as Congressional campaigns under Title 2. In the current year, we must ensure that entitlements of the candidates are rapidly, but thoroughly reviewed, and that comprehensive audits are initiated as contenders withdraw from the field.

In fiscal year 1989, we hope to conclude the audits of primary campaigns and initiate the audits of the general election campaigns. Because of the increased flow of funds in the campaigns, the heated battle, and heightened public awareness of the rules, we expect an extraordinary number of complaints and internally-generated compliance matters relative to the Presidential campaigns in both fiscal years 1988 and 1989. As this committee is well aware, new charges of irregularities are still arising out of the 1984 Presidential election. We anticipate that the aftermath of the present Presidential election cycle will create an even greater workload.

We cannot allow the Presidential race to detract from our responsibilities concerning the concurrent Congressional races. Judging by the year-end reports we are now reviewing, it appears that records will be set there also. Over $50 million were raised in calendar year 1987 in support of candidates for the 33 Senate seats up in 1988. The corresponding figure for House candidates is almost $68 million. These are the net receipts collected in the year before the election year.

Our experience has been that the quadrennial Presidential contest does not divert money, controversy, or interest from the Congressional races. Instead, the workload and issues of the Presidential contest are added to those normally witnessed in the two-year Congressional election cycle. In fact, our experience shows that, during the Presidential election cycle, the increase in the number of participants and the amount of money involved in all elections grow disproportionately and then create a new and higher plateau from which the next cycle begins. The bar graph we have produced here for your review illustrates this trend.

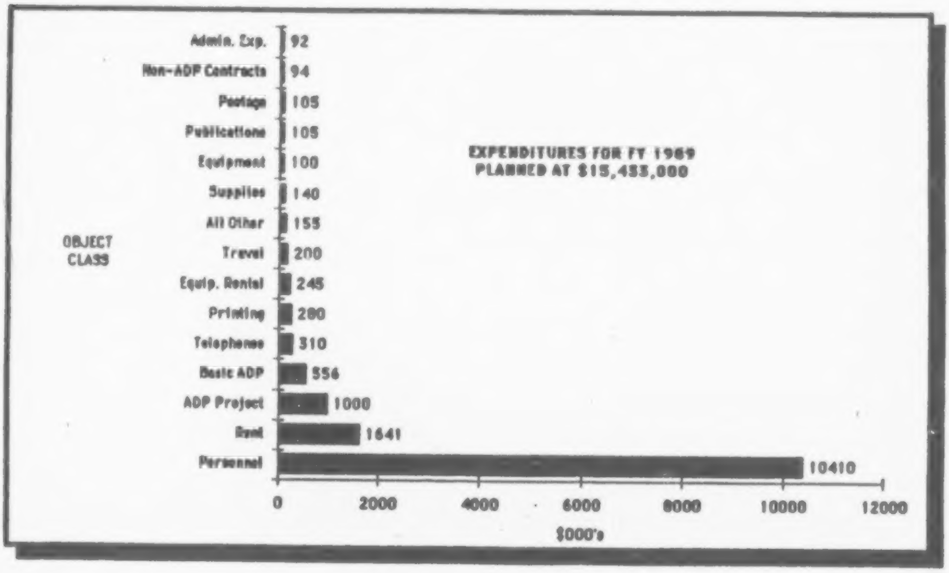
FEC FY 1989 BUDGET REQUEST



DISBURSEMENTS IN FEDERAL ELECTIONS BY ELECTION CYCLE

Earlier, I promised to explain briefly how we intend to employ the funds sought to address the considerable workload flowing from the upcoming election.

Our budget request starts with a base which sustains in fiscal year 1989 the level of effort already approved for fiscal year 1988. While we disputed OMB's estimate of cost of our steady state operations, we were pleased to get OMB's acknowledgment that a Presidential election cycle encompasses two fiscal years. This minimum base level of funding should afford us 258 full-time equivalent staff years. As can be seen readily on the second bar graph, personnel compensation comprises the overwhelming bulk of our cost of operation. Our original budget projected our fiscal 1989 base at $14,614,000; OMB thought $14,250,000 would suffice. After numerous revisions and negotiations, we settled on $14,318,000. We were able to agree to a lower figure, in part, because the fiscal 1988 pay raise was not as large as we had anticipated, and carrying that forward into fiscal 1989 was, therefore, not as costly as we had originally projected. Nonetheless, our agreement on the base entails a requirement to absorb roughly one-half of the anticipated inflation (both in salaries and non-personnel costs) in our operating expenses next year. The Commission is prepared to make this concession as our contribution to the deficit reduction program although we have not yet determined where the reductions will be borne in our daily operations.



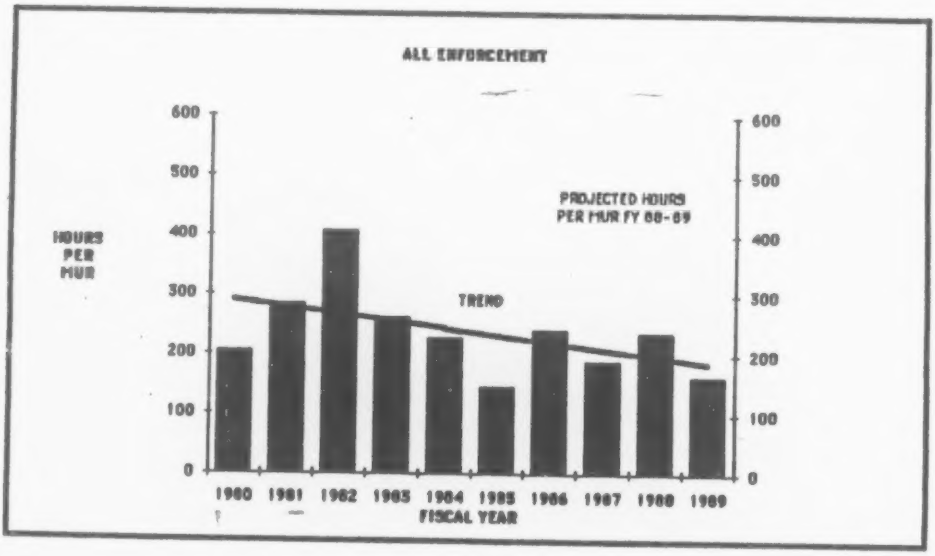
Expenditures by Object Class for FY 1989

Beyond this base, two critical needs are presented in our fiscal 1989 budget request. We seek the funds and the adjusted employment ceiling to add six staff to our enforcement program.

We also seek the resources to install a modern office automation system affording a host of information processing capabilities.

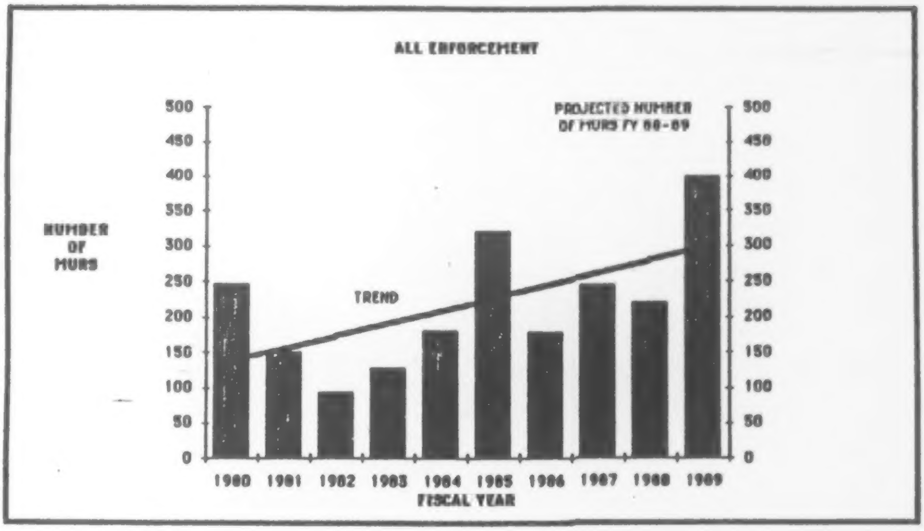
First, I would like to address our enforcement needs. At present, our Office of the General Counsel has three teams assigned exclusively to "matters under review" (MURs). Ideally, each team has a secretary, a supervising attorney and four or five professionals (lawyers and paralegals). We have undertaken a number of procedural and managerial improvements to our enforcement process in an effort to handle the growing workload. The following graph shows the increasing volume of cases. This graph also demonstrates that as our case load has increased, we have increased our staff productivity, but these improvements have been inadequate to keep up with the ever increasing number of cases. We are now at the point that we need an additional enforcement team.

Projected Hours Per Enforcement Case for FY 1988-1989



Represents equivalent complete enforcement cases (MURS or Matters Under Review) 1/26/88

Projected Total Enforcement Cases for FY 1988-1989



Represents equivalent complete enforcement cases (MURS or Matters Under Review) 1/26/88

In addition to the increase in the number of cases, our more recent cases involve issues of greater complexity than in the past. This is a natural result of more experienced campaign finance practitioners having greater opportunities to delve into grey areas of the law. Many of the straightforward issues have been resolved in closed MURs and Advisory Opinions issued since the 1979 amendments. Now, many of the cases hinge on more subtle and complex problems argued by more experienced and sophisticated practitioners of campaign finance law.

Having adopted virtually every procedural shortcut available under the present law, we are at a point where the growing workload cannot be timely handled without additional resources. While we expect some increased productivity from the office automation program requested in this budget, we will nevertheless need additional staff to handle the anticipated future growth in the MUR case load.

Individual members of this committee, and of each committee we face each year, can relate their personal frustration with the Commission's slow pace in resolving its investigations. From the perspective of either complainants or respondents, delay in the process damages the interests of the parties and discredits the process. Violations should be rapidly uncovered and rectified. Similarly, wrongly accused respondents must be quickly exonerated. Delay in moving a given MUR can, and often does, generate even more work since complainants are empowered by 2 U.S.C. §437a(8) to sue the Commission in the D.C. District Court to compel action.

The immediate need is to add an additional six staff to the enforcement program and establish a fourth team. Small as the increment is, both in absolute and relative terms, it increases by more than one-fifth our line staff specifically devoted to enforcement. We would expect that, once up to speed, this additional capability would result in a proportionate increase in case closings. This can be monitored readily. OMB ultimately agreed with us on this requirement and concurred in increasing our staff ceiling for fiscal 1989 by the requisite 6 FTE. OMB approved, however, only one-half the funds needed to pay these additional staff, and asked us to make up the difference--roughly $115,000.

The other critical element beyond the base budget is a request for one million to procure and install an up-to-date office automation system. Our objective is to increase productivity by providing those employees engaged in the drafting or final preparation of Commission documents with computer work stations capable of word processing, legal research, message handling, and on-line access to the agency's mainframe data bases. Virtually all staff members will be linked through a local area network. This type of intergrated office automation system has offered other agencies and private firms significant improvement in both the quality and quantity of their written product. Since much of the Commission's work results in written documents, automation offers us significant opportunities for improved productivity. Take, for example, OGC reports, conciliation agreements, court pleadings, Advisory Opinions, campaign guides and brochures--all of these would benefit enormously from the proposed computerization.

The impetus to move on this procurement at this time comes from the fact that our 70's vintage, stand-alone word processing equipment is failing with increasing frequency. Since the manufacture of these devices was discontinued some time ago, replacement parts are becoming scarce. We are now literally at the point of cannibalizing some units to maintain others. We have no choice but to replace our obsolete word processing capability. Information technology gains since the heyday of stand-alone word processing afford a whole spectrum of new technical aids for both professional and clerical workers in the office setting. We plan to interconnect our workstations through a high-speed local area network. The staff will be linked one-to-another as well as with our off-site mainframe. Planned software will enable line staff members to move their drafts electronically for supervisory review and final typing. Staff also will have real-time access to the Commission's legal research indices, Commercial data bases, and the Commission's massive disclosure data base. We are very excited about the prospects this new technology affords us. We also recognize that implementation is not "turn key" and will require considerable retraining.

We cannot predict with any certainty how the marketplace will respond to our competitive procurement. We have, therefore, offered to separately account for the $1,000,000 sought. These funds would be available only for this purpose, and any amount not needed would be lapsed to the Treasury and not applied to any other purpose.

This concludes my prepared remarks. I would be pleased to respond to any questions members of the committee may have at this time. Thank you for your attention.

STAFF TURNOVER

Senator DeConcini. Thank you.

Senator Domenici.

Senator Domenici. Let me ask, it is my recollection from last year that you were encountering some very serious problems with reference to staff turnover. Are you still having those kinds of problems with retention and recruitment?

Mr. McDonald. If I may ask our staff director to comment on that.

Senator Domenici. Sure.

Mr. Surina. We are still having rather rapid staff turnover, and as a result we have not yet achieved the staffing level that we wanted for this year so far. We are expanding our recruiting to more campuses and we hope to improve that.

Senator Domenici. To what do you attribute the difficulty you are having in this area? Is the job and the kind of work that you do, not the kind of work that people want to do, or too complicated, or is it just a lack of talented people out there in this field?

Mr. Surina. We are, on the one hand, quite selective on who we hire. As a result, we will not just take anybody off the street. Second, we have found that our people are, in some respects, very attractive to the outside world, both in the professional ranks of attorneys and auditors.

Senator Domenici. I would assume that part of that lack of retention—this is just my assumption based upon my own experience—is based upon the fact that there is a great demand for the kind of talent you have because of the complexity of this law. Is that correct?

Mr. Surina. Absolutely. It is a good training ground.

Senator Domenici. It is good training ground for those who are running.

Do you think that that problem of retention and recruiting is serious, or is this something that we shouldn't be worried about?

Mr. Surina. I believe it is serious to the extent that unless we have what we consider to be stable budgets for several years going, it is difficult for us to make advance recruitments, particularly at the colleges and the law schools. Where we have hurt ourselves in the past, in uncertain budget climates, is avoiding making future commitments. Then it comes back to haunt us when the money frees up and we don't have the people in the pipeline.

Mr. Josefiak. On that point, I would like to expand because I think the last budget go-round was a perfect example. When we were operating under the continuing resolution—at the end of the year there were two or three different resolutions—and we were operating at the previous year's budget levels rather than the new budget levels, we made a decision as a Commission that we would put a freeze on hiring simply because we didn't know where we would end up with our final figure.

Senator DeConcini. Even with this committee supporting you? [Laughter.]

Mr. JOSEFIAK. Even with this committee supporting us.

I think the staff director is right, because of the uncertainty with the budgets, it causes us a problem in reinventing the wheel half-way through the year.

COMPLIANCE/TURNAROUND

Senator DOMENICI. I think that this is a very serious problem because, if anything, what we are hearing is that the system has broken down. It takes too long for things. We get a lot of complaints, at least I do, that we have invented a monster here. People don't know if they are violating the law or not, and they can't find out. Then they have to wait forever.

I just think that when we are involved in something as essential as the process of electing and carrying out democracy, we ought not be letting that stand in the way of compliance. It makes people want to not comply, or it gives them excuses when you, indeed, find something wrong. I think that it is very serious that we get on top of it.

Frankly, I am not sure I want these laws on the books, but they are there. I am not even sure that I want you all from what I have seen. Nonetheless, it is a reality and we have to help you, it seems like.

Mr. MCDONALD. I think that is the problem, Senator, of individuals kind of wanting it both ways in some respects. We face the problem constantly of being in the situation where—for example, last year before a hearing in the House, we happened to be sitting in the audience, one group got up and announced that we were so soft on crime there was no need to have the Commission at all; and the next group got up and basically described us as a Gestapo state. Finally, the chairman asked if the people were talking about the same commission. I think that this is a problem we have in the political environment we are in—the kind of thing that you are talking about, in relationship to turn-around time. We hear those complaints as well, but we have made substantial progress in that area. Our average has dropped, in compliance matters, from 9.6 months to about 7.5 months per case. We think that that is pretty good. But this is the very reason that we are asking for the sort of things that we set out today—a better enforcement team to get us up to speed, and the ADP improvements would be dramatic.

STAFF TURNOVER

Another thing, going back to your earlier question regarding staff turnover, one of the things that happens to sharp people who are recruited off of the campuses, is that before too long they realize that they can go to other agencies. Other agencies are much better off than we are in terms of ADP and their ability to turn their work product out. I think that that is discouraging to them as well, and that is one of the reasons that we have come forth with this recommendation.

PRESIDENTIAL SPENDING LIMITS

Senator DOMENICI. With reference to the Presidential primaries and Presidential candidates, when we were debating some changes in our laws as they affect us, we heard a lot of speeches about the Presidential system, which is now regulated, partially funded by the Government, and on which certain limitations are imposed.

We heard horror stories about how ineffective this system was, and what would it be if we then put 100 Senators, or 33 each 2 years, and all the House under it. Statements were made like this. One was, there has not been any Presidential candidate in either party that has not violated the campaign laws and found to be in violation by you all.

Let's assume that that is true. It was made by a number of Senators on the floor. My guess is that they got this information from you all. I personally think that that is a shame. I think it means something. It means that either we have some crazy laws, crazy regulations, or we just have people running for President who want to violate the election laws.

I am not saying that they went to jail or that they were serious, but I think the statement was that there has not been a single candidate who has not been found to have violated our laws as you regulate them for us.

Assume that it is off by 1 percent, and we have had one who hasn't, why is that?

Mr. JOSEFIAK. Senator, I think what they are referring to is the area of the spending limits. We have a State-by-State spending limit and an overall spending limit. Quite frankly, with the State-by-State limits, it comes down to allocation formulas.

Let's say that you are in the New Hampshire primary, and also you are dealing with Massachusetts, and you are running ads in Massachusetts that are going into New Hampshire. What portion of that has to be allocated to New Hampshire and what portion has to be allocated to Massachusetts? That kind of thing.

I think campaigns hire people to get more out of their money, so they are going to come up with the best formula that they can come up with. Our regulations talk in terms of a reasonable formula.

We go back through the audit process once they are out of the campaign. Our auditors look at everything they have. Our auditors review the allocation formulas and either agree or disagree with them, and that is where we get into the conflicts. Campaigns will take one position, and the Commission will take another position. We will go back and forth through the audit process, and sooner or later we will resolve it. I think that this is basically what you are talking about.

The Commission, from time to time, has made legislative recommendations to the Congress that Congress may want to look at—a reevaluation of those State-by-State spending limits. We made that recommendation based on the administration of those limits. For example, from our standpoint, our auditors have to spend a great deal of time going through those formulas. Campaigns have to go through a great deal of time.

Perhaps it would be better just to have an overall limit, and that is the recommendation that we asked Congress to look at. But you all may decide that you don't want a Presidential candidate spending $3 million in Iowa. It is a policy decision that you are going to have to make, and whatever policy decision you come up with, we will enforce.

I think, Senator, that is really what you are talking about when individuals make those broad statements that people are violating the laws.

Senator DOMENICI. Let me just ask this next question, and then I will go.

Frankly, I am very disturbed. I have been involved only slightly, but it seems to me that what we are talking about is a very, very serious issue if the resulting violation is nothing more than a nominal fine or a slap on the wrist, because I perceive that these primaries are overspending almost intentionally in a State that they desperately need to win in this era of momentum.

I think somebody has to be sitting around and just saying, we read that, but New Hampshire is terribly important and we are going to spend $1 million more. I think that has a profound effect on who wins. I don't like the idea that one group might be following the law and the other may not be in something as important as this. I think that is happening, precisely what I have described.

You are telling us that you have made recommendations. You see the problem and you know the problem.

Mr. JOSEFIAK. Specifically with regard to that problem, Senator, I think there are two issues that have to be focused on.

The first issue is, what the Commission would do if a committee reports going over the limit in a State, and you are not going to see that. There is no way that we are going to know that until our auditors go into the field and check out the allocation formulas that the people are using.

A person comes out right on the public record, and the next report is due on March 20, and says that they are over the limit, that is a different story, but that is not what we are going to see. We are going to see, perhaps, newspaper articles that are unsubstantiated, and I am sure that you don't want us running around, getting involved in campaigns, saying: You can't run for President any more.

There are two sides to that issue. Some people would want us to have an auditor in the campaign from day one, but that is not a practical viewpoint. I don't know what the answer is with regard to how we are going to be able to tell, before we send our auditors in, whether someone is going over the limit unless they tell us. If they tell us, that is a different story.

The Commission takes this whole area very seriously because it is the nuts and bolts of the whole public funding scheme. There is a contract between the candidate and the Government. The candidate agrees to a spending limit, and as a result of that agreement gets Federal funds. We are taking that very seriously. I want to say, for the public record, we will enforce those laws.

What we can do, even though it is going to be after the fact in most cases, we will get a repayment to the Treasury, we may assess a civil penalty. If we have knowledge that the committee is, so-called, willfully and knowingly violating the law, we can assess a higher civil penalty or bring criminal charges.

We are really reevaluating our whole procedure right at the moment as to what to do with the spending limits. I think you are going to see a commission acting much more quickly in the future, because it is so fundamental to the issue of public financing.

Senator DOMENICI. I would just say, from my own standpoint, I am going to do what I can to help you with your budget. I hope our chairman is, and I am glad OMB is. Frankly, I think we have almost an obligation because this year's primary is so different from prior ones at the Presidential level.

As soon as practical give us a very notorious report on what you see as shortcomings in this process, because clearly with super Tuesday and some of the other things that have happened, things are much different than the Commission has necessarily been involved in before.

The gimmickry and other things are far different than they were before. I think we ought to know, and if the authorizing committees are not interested, we would be interested. I would hope that you would do that.

Thank you, Mr. Chairman.

Senator DECONCINI. Senator Domenici, let me just say, I think the type of leadership that you have demonstrated here—I would say that even if you had gotten up and left, because I know your philosophical problems with this, having heard you on the floor just last week. It is the law and we want to make it work, and we want to make it work the best we can.

I appreciate that. Indeed, I am a big believer in what this Commission does. Even if they don't do it just the way I want it done, I think it has had a major impact on straightening up campaigns, not that it can't be improved.

Along that line, Senator Domenici raises an interesting point. I recall it being said time and time again in a debate just a week old today about every major campaign having been in violation. I didn't say it, but I remember hearing it said, and I could go back and find out who.

Is there any accuracy to that in your judgment?

Mr. JOSEFIAK. There are degrees of violations. As I was telling Senator Domenici, the repayment process, where someone might have gone over a limit, because there is a legal question on allocation formulas, that is what we see most often.

We also have other problems. Under the law, which you don't have to operate under, the Presidential committees have to spend their money for qualified campaign expenses. We may make a decision that it doesn't meet the definition of a qualified campaign expense, because we look at what was spent in the primary as being for the general election, so we won't allow that to happen.

Those are the kind of things. They are not easy for a campaign to decide. They have their own attorneys and they try to decide from 1 minute to the next what this expense is for, but those are the kinds of things. Then you find, occasionally, willful and knowing violations, and you find campaigns receiving excessive contributions just like you would in any congressional race.

Senator DECONCINI. Is it fair to say that every Presidential campaign that participates has probably violated?

Mr. JOSEFIAK. It is fair to say that every Presidential campaign probably violated and had a repayment to the U.S. Treasury.

Senator DECONCINI. What is your comment in response to the fact: Does this law deter at all excessive expenditures, or do you think there is substantial compliance?

On a 1-to-10 rating, is the compliance of Presidential candidates a 1, a 2, or a 9 or 8, or where?

Mr. MCDONALD. I think it is a very good fundamental question that goes back to Senator Domenici's point a while ago about whether campaigns risk going ahead and proceeding in terms of violating the law if a State is critical to them. We know that campaigns have done that by virtue of what their own campaigns are saying in the newspaper. Those are things that they are saying. Obviously, we have to wait until those kinds of things can be substantiated.

I think compliance is very high.

Senator DECONCINI. Would you care to put a rating on that?

Mr. MCDONALD. That is tough, Senator. I would say, in the Presidential area, I would think that it is in the 90 percentile. The reason I say that is very cleary this: individuals who want to be President of the United States, and who are serious, have to come to grips with the fact that there is a very vigilant press out there, a very vigilant media. The fact that the law creates a standard by which to measure their activities, I think is very essential to the process. I think that compliance is high.

If you think back to the 1984 election, there was Vice President Mondale's campaign going on, and one of the challengers, Senator Hart, made a substantial issue about his compliance with the law in terms of drafting legislation. If you think back about that, and this kind of got left out over time, at that time that was a major issue. I think it had a major impact on that primary and made that race fairly close.

I think because there is a law, a commission, and a standard to go by, you are always going to have these statements. These statements are more frustrating to us because we know what they are. People drive across the State line, rent cars, and drive them back. They stay in a State 4 nights, and they go out on night No. 5. We realize that. But I think the intention of the law is to try to be sure that there are not major violations to the tune that we had with the outgrowth of Watergate. I think that is what it is all about.

Mr. JOSEFIAK. You can't shortchange the idea of disclosure. We don't know any of this until we have disclosure. The fact that perhaps Congress, when it decided all of these issues, had a balancing act—maybe it wanted the Commission to do exactly what it was doing from its standpoint. But because there was disclosure, there was going to be a public recognition of those facts, and someone was going to have to answer during the campaign whether or not the Commission was involved.

You have to remember, if we are involved in compliance, we can't talk about it. Once a complaint is filed, we have the confidentiality rules. We cannot tell you to this day who we have complaints against and what we are doing.

Senator DeConcini. Have you considered trying to give earlier guidelines—Iowa, this is what we think are reasonable expenditures, and list 40 of them that you are satisfied are, and list 40 that you are satisfied are not.

Mr. Josefiak. We have guidelines that go to all the campaigns. There are huge volumes that we prepare. We have an auditor basically assigned to each campaign, and they are in contact on a daily basis with the campaign. They serve as a service.

Senator DeConcini. Are they frequently tasked or frequently involved with the campaigns?

Mr. Josefiak. The campaigns call all the time and ask the questions of what they can and cannot do. After every election cycle, the Commission debriefs itself, goes through the process, and reevaluates its own regulations based on the experience of the last campaign, and makes changes to make the regulations clear from one election cycle to another.

Each election cycle we pat ourselves on the back and say, we have all the problems resolved. Then we have a new election cycle and a whole new theme of problems arise. So we are constantly reevaluating our positions and changing the regulations after each election, but that is not enough. Campaigns are too viable and they are there for a purpose, and they do use their imagination.

Senator DeConcini. Have you had any examples of what Senator Domenici indicated—where campaigns have just flagrantly violated the law in order to win a State? Do you have any charges like that, or have you had any?

You were talking about the Hart/Mondale charge, I can't remember those details, are there any pending now? I realize that you cannot talk about them.

Mr. Josefiak. We have cases pending. The Mondale situation was a situation where the charge was the use of the delegate committees, and they were nothing more than satellites of the campaign and, therefore, they should count against the campaign spending limits as opposed to separate limits for money coming in and money going out.

We resolved that matter. We didn't complete the investigation, but we settled with the Mondale Committee where they ended up paying not only repayment to the Treasury, but additional funds to the Treasury to the tune of, I believe, $350,000.

Senator DeConcini. What about in this Presidential cycle, do you have any evidence of anybody doing that?

Mr. JOSEFIAK. As I said, certainly we don't have it from the reports as such.

Senator DECONCINI. Do you have any complaints?

Mr. JOSEFIAK. I wouldn't be able to tell you if we did because of confidentiality. The only thing that I could refer you to is what you read in the papers, and we read the same things.

Senator DECONCINI. Any complaint that is filed is confidential, just the filing of the complaint?

Mr. JOSEFIAK. Unless someone can indicate who filed the complaint, and who is complained against, our position is that we will not give any information out.

Senator DECONCINI. If Bush files a complaint against Robertson, that is confidential unless they make it public?

Mr. JOSEFIAK. They can waive confidentiality, that is right.

Senator DECONCINI. But if they file it, it is confidential.

Mr. JOSEFIAK. That is right.

Senator DECONCINI. I have a number of questions, and I will submit them to you. I appreciate your work. I think your Commission does a good job overall, and it is a thankless job as far as what I can see. It is kind of like being a legislator, nobody ever comes around to thank you for raising their taxes. I don't think that anybody comes around and thanks you for this effort.

I am very pleased, as you said, Mr. McDonald, that OMB has been a convert or something, it has come in without having to leave the impression that they don't like you. I have had that impression over the years, quite frankly, to my dismay and frustration. I have a feeling that maybe that has turned around a little bit, I hope so.

You have a big job on your hands and it is a crucial time. I think a lot of it really has to do with credibility of our election process, how well you perform and how professionally you perform, and nonpartisan you perform for all us, whoever it is, because it makes some difference, I think, in the cynical world we live in, and the political climate of an election year, that you be above it all. That is easy to say and hard to do. I wish you well.

Mr. JOSEFIAK. Thank you very much, Mr. Chairman.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Senator Domenici also has a number of questions that he will submit.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

COMPUTER PROCUREMENT

Question. In analyzing your budget request, it is clear that your only major increase over current levels is the $1 million that is planned for the replacement of the Commission's old word processing system.

I do not doubt that your agency needs this computer equipment. After all, here on the Appropriations Committee, we are installing for the first time in our history, computers and word processors for the Subcommittee and full Committee. So we are sympathetic.

But at a time when your most pressing need is audit staff and other seasonal staff to see your agency through the election and post-election crunch, wouldn't it make more sense to postpone the computer buy, and use that money for additional temporary or even permanent staff?

Answer. The Commission responded to reduced budgets during the 1980's and to the 1980 FECA amendments to its audit authority by reducing its staff overall and by implementing substantial compliance thresholds for the compliance process: specifically with regard to audit referrals and enforcement actions referred internally. Due to management improvements and the implementation of new data entry contracts, the Commission also saw general productivity improvements for many of its functions. However, despite the use of thresholds and productivity gains, the general increase in campaign finance activity has placed a growing burden on the static staffing levels at the Commission. As a result of support from our appropriations and oversight committees, the Commission has been able to achieve a base level of funding sufficient to support 245 FTE in "normal" times. Furthermore, the Commission has received the support of OMB and our Congressional committees in seeking funding for an additional 13 FTE over and above the normal base of 245 FTE—a total of 258 FTE—during the 1988 Presidential election cycle.

However, this level of staff is only sufficient when our audit staff is supplemented by temporaries and by GAO staff on loan from the Comptroller General during the Presidential election period. We do not have sufficient funds to maintain a full, permanent audit staff in non-Presidential periods, nor do we have sufficient audit workloads during those periods. The present arrangement with GAO, while not ideal, is the best manner in which we can staff up and down in a timely fashion during Presidential audit periods. Hiring of large numbers of temporaries places a management strain on permanent staff. Furthermore, the problems which will be encountered in FY 1989 and 1990 in wrapping up the Presidential audits are not areas for which temporaries are well suited. The majority of field work should be completed for the early primary losers, leaving the final primary contenders and the general election candidates. Certification of matching funds should also be completed. What remains are the final repayment determinations and resolution of legal questions which either arose during the campaigns or were the result of audit findings.

In this regard, the computerization project is well suited to assist in wrapping up the 1988 audits and legal actions. The initiative is designed to *both* replace our aging word processing equipment *and* to enable legal staff to use desk top computers to access the main data bases and to facilitate the processing of draft and final legal documents. The Commission believes that the requested 258 FTE basic staff, as we received in FY 1988, should be sufficient to enable us to meet our obligations during the full two-year 1988 Presidential election cycle. We also believe that the additional six–person enforcement team should enable us to meet expected workloads in enforcement and cope with the ever-increasing volume of enforcement activity. Nevertheless, the Commission recognizes the need for an intiative to cope with the long–term increase in all phases of campaign finance activity, not just in enforcement. The response is the request for the $1 million for computer enhancement: the expected gains in productivity should assist in meeting growing workloads. Most important, failure to replace aging, in-place word processing equipment will not only negate potential productivity gains, but will result in further delays as obsolete machines continue to break down and fail.

In sum, the Commission has confidence that the full 264 FTE request for FY 1989 will be sufficient to meet the workloads of the 1988 elections. Rather than utilize the requested $1 million on short-term staff increases, the Commission requests the funds to implement an enhanced level of computer support to meet future rising workloads without large increases in staff.

TRAVEL

Question. This Committee made it very clear in its report last year that it wanted its agencies to adhere, as best they could, to the proposed 23% cut in travel, mandated by the Budget Resolution.

I notice that your travel budget for fiscal 1988 increases by almost 100% over fiscal 1987 levels, and will not be reduced in fiscal year 1989.

Why doesn't your revised fiscal 1988 plan show a cut in travel as mandated by the Committee for fiscal 1988? Or are you relying on the "relief" language in the Continuing Resolution to justify not cutting any travel in FY 1988?

Answer. The Commission's travel requirement is driven by the cyclical nature of our election and audit process. For example, FY 1987 represented a low point in audit travel for a four-year Presidential election cycle. FY 1988 and 1989 reflect the two heaviest years with regard to Presidential audits. The bulk of the increases in travel in both FY 1988 and 1989 reflect the increase in travel by the Audit Division to conduct Presidential audits which are mandated by law.

PRESIDENTIAL CAMPAIGN/CONGRESSIONAL CAMPAIGNS

Question. On page 2 of your statement you indicate that greater sums of money are pouring into the Presidential and presumably the Congressional campaigns than ever before. You state that your first payout of matching funds on January 4th totalled more than $25 million, as compared to the first installment in 1984 of only $7 million. As you know, the Campaign Reform bill went down in flames last week after a heated week of filibustering and negotiations so not much relief is in sight.

(a) What is your early assessment of the Presidential campaign in terms of violations of campaign law; the magnitude of contributions; the involvement of the average American in contributing to the campaigns; and what does your data show regarding Congressional campaigns so far?

(b) What particular audit findings are popping up and how are you coping with them in the early stages of 1988?

(c) Was there any money built into your FY 1988 or 1989 baseline budget in anticipation of S.2 or some other campaign reform measure being enacted this year?

Answer. (a) The appended tables provide summarized financial information on 1987–88 Presidential and Congressional campaigns through the most recent reporting period. They include the total amount contributed to these campaigns by individuals, along with other sources of funds.

The Commission does not make early assessments of possible violations of campaign law, and is precluded by the Act from discussing ongoing enforcement actions.

(b) As you are aware, Section 9038 of Title 26 of the United States Code, states that after each matching payment period, the Commission shall conduct audits of the qualified campaign expenses of every candidate and his authorized committees. The Commission's Audit staff does not begin audits of committees under this section until after the candidate's date of ineligibility. The Commission is scheduling audit fieldwork on the first five candidates to withdraw from the race. At this early stage in the process the Audit staff has not had an opportunity to conduct onsite fieldwork from which the audit findings are developed.

(c) The Commission's FY 1989 budget request at both the baseline level and the enhanced level does not contain any funds for S. 2 or any other proposed campaign finance legislation.

USE OF GAO AUDITORS

Question. Traditionally, your agency has called upon the General Accounting Office to augment your permanent staff during election year budget cycles.

What level of assistance are you expecting from GAO in fiscal years1988 and 1989? Is this up or down from the last Presidential campaign year of 1984?

Answer. For FY 1988 and FY 1989 the Commission is planning on assistance from the GAO in terms of 5-6 auditors for significant portions of both fiscal years, roughly 3.5 FTE in FY 1989. This compares with the assistance received in FY 1984 and 1985. The assistance will be on a non-reimbursable detail basis, as in 1984.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

ADDITIONAL STAFF

Question. You are requesting to add six additional staff to your enforcement program due to the increasing volume and complexity of your caseload. I understand that after reaching a mutually-agreed upon budget request for fiscal year 1989 with the OMB, you will now be required to absorb half the costs associated with this new six-person enforcement team.

(a) How will the Commission achieve the savings necessary to meet these additional personnel costs?

(b) On average, how long is it now taking you to process a case?

(c) What is your current case backlog from the 1986 election?

(d) With the requested additional six-person enforcement team, when will you be able to clear the 1986 election case backlog, and what time improvements do you hope to make in case processing?

Answer. (a) The Commission will deal with this problem in detail when it develops its FY 1989 Management Plan in the summer and fall, contingent upon our final funding for the fiscal year. However, assuming we receive our full request of $15,433,000, it still will require some reductions elsewhere to cover the absorption of half the cost of the six-person team in enforcement. Because the Commission already trimmed non-personnel costs to meet the OMB level agreed to, absent some future significant savings in some items, the most likely area for reduction is in other personnel, i.e. other programs. Some of the difference may be made up in lapse, although we are already absorbing half the cost of a projected 2% pay raise in FY 1989. Therefore, it will most likely require a reduction in staffing in some other area, probably in a support function rather than in Reports Analysis or Data Systems (entry and coding) for example. Another alternative would be specific reductions in programmatic non-personnel costs such as printing of informational materials or travel for outreach efforts. The Clearinghouse tentatively has been reduced by $46,000 for contracts in the final request, and general support costs have been reduced to minimal (or *less*) levels.

(b) During FY 1986, the Commission closed 178 cases. They took an average of 9.6 months to close. In FY 1987, the Commission closed 207 cases. Not only did the Commission increase the number of cases closed, it was able to close the cases in an average of 7.6 months.

(c) There are 32 open MURs which originated in calendar year 1986.

(d) During the first 5 1/2 months of FY 1988, we have already closed 18 cases that originated in 1986. The establishment of an additional six-person enforcement team will enable the Office of General Counsel to focus more resources and set priorities regarding enforcement matters originating during 1986, with a goal of concluding such matters as expeditiously as possible. The degree of the complexity of the legal issues involved in these cases, in conjunction with the amount of investigation that must be conducted on a case-by-case basis, effect the clearing of the 1986 case backlog within a specified period. It is anticipated, however, that the addition of another supervisor to work closely with the enforcement staff, and the distribution of cases among a larger pool of individuals, will result in significant time improvements in the handling of all cases.

COMPUTER PROCUREMENT

Question. You are requesting an increase of $1 million to procure and install an up-to-date office automation system. You mention that because you cannot predict with certainty how the marketplace will respond to the competitive procurement, you cannot accurately predict its cost. This being the case, you say you have reached an agreement with the OMB to separately account for this $1 million and to return any unused amount to the U.S. Treasury.

I note that the fiscal year 1989 appropriation language requested does not reflect a separate accounting of this $1 million or propose any bill language to effect this agreement. How is this $1 million being separately accounted for?

Answer. In FY 1985 the Commission received over $1.3 million to cover the costs of relocation to new quarters. This was accounted for separately by the Commission and $340,000 was returned to the United States Treasury. We have agreed to the use of a Category B apportionment for those funds which Congress approves for the Computerization Project—at this time a proposed $1 million in the Budget Request. This agreement with OMB reflects our willingness to segregate the ADP funds by use of a Category B apportionment, which would effectively preclude the Commission from using the funds for any other purpose. The use of the Category B apportionment and our track record in the past would seem to negate the need for special appropriation language.

ADJUSTMENTS TO ORIGINAL FY 89 REQUEST

Question. Would you please provide for the record the adjustments which must be made to the original fiscal year 1989 budget request you transmitted concurrently to the Congress and the OMB to arrive at the fiscal year 1989 budget request of $15,433,000 contained in the President's budget.

Answer. The adjustments required to arrive at the final FY 1989 Budget Request, as agreed to with OMB, are detailed in the following table. In summary, personnel costs were reduced to reflect the agreement on a 2% as opposed to a 3% pay raise in FY 1988. Other adjustments included only half the cost of the proposed six–person enforcement team and half the cost of the projected 2% pay raise in FY 1989. Adjustments were also made to the FERS costs estimates based upon on the latest information from OPM and OMB on projected FERS costs for FY 1989. The ADP project was reduced by $85,000 and one position.

Other adjustments included trimming projected non-personnel costs in many support object classes, plus a reduction in the contract funds for the Clearinghouse. We were also able to reduce the cost of data entry of items into our disclosure data base by the implementation of a very favorable data entry contract with a new vendor. In general, the final budget request reflects a very lean budget with regard to non-personnel support costs. Once the enhancements for enforcement and computerization are accounted for, the total increase from FY 1988 is only 1.01%.

FINAL VS ORIGINAL FY 1989 BUDGET REQUEST

FY 1989

OBJECT CLASS ($000's)	FY 1989 ORIGINAL BUDGET	FY 1989 FINAL BUDGET	DIFFERENCE ORIGINAL VS FINAL
SALARIES & BENEFITS	$10,414.0	$10,276.0	-$138.0
OVERTIME	$40.0	$35.0	-$5.0
WITNESSES	$5.0	$5.0	$0.0
CASH AWARDS	$30.0	$20.0	-$10.0
UNEMPLOYMENT	$25.0	$20.0	-$5.0
FERS/TSP	$55.0	$54.0	-$1.0
WORKMAN'S COMPENSATION	$0.0	$0.0	$0.0
TOTAL PERSONNEL	**$10,569.0**	**$10,410.0**	**-$159.0**
TRAVEL	$210.0	$200.0	-$10.0
MOTOR POOL	$5.5	$5.5	$0.0
TRANS. OF THINGS	$7.0	$5.0	-$2.0
GSA SPACE	$1,641.0	$1,641.0	$0.0
COMMERCIAL SPACE	$20.0	$18.0	-$2.0
EQUIPMENT RENTAL	$240.0	$245.0	$5.0
PRINTING	$294.0	$280.0	-$14.0
MICROFILM PRINTS	$30.0	$30.0	$0.0
TRAINING	$40.0	$30.0	-$10.0
ADMIN. EXPENSES	$92.0	$92.0	$0.0
SUPPORT CONTRACTS	$1,891.0	$1,650.0	-$241.0
SUPPLIES & MATERIALS	$140.0	$140.0	$0.0
PUBLICATIONS	$118.0	$105.0	-$13.0
TELEPHONE--LOCAL	$130.0	$125.0	-$5.0
LONG DISTANCE TOLLS	$2.5	$2.5	$0.0
TELEGRAPH	$2.0	$2.0	$0.0
POSTAGE	$105.0	$105.0	$0.0
TELEPHONE INTERCITY	$210.0	$185.0	-$25.0
RECURRING SERVICES	$52.0	$52.0	$0.0
NON-RECURRING SERVICES	$11.0	$10.0	-$1.0
EQUIPMENT PURCHASES	$120.0	$100.0	-$20.0
LAPSE	$0.0	$0.0	$0.0
RESERVE	$0.0	$0.0	$0.0
TOTAL NON-PERSONNEL	**$5,361.0**	**$5,023.0**	**-$338.0**
TOTAL COMMISSION	**$15,930.0**	**$15,433.0**	**-$497.0**

Question No. 1. Let us assume that Amendment 1405 is the law of the land. And let us assume that the per-state spending limits specified in Amendment 1405 are in effect. Further, let us assume, as an example, that one candidate in each race spends exactly what the winner in each of the 1986 Senate elections spent on his or her election in 1986, and each of the losers met the requirements of Amendment 1405 and adhered to the limitations in Amendment 1405.

-- Would you tell me how much taxpayer money would have become available to each of those losing major party candidates, the ones who adhered to the spending limitations?

-- Can you tell us how much taxpayer money would have gone to minor-party candidates in those races, assuming that the minor party candidates qualified for benefits under Amendment 1405.

Answer: The table in exhibit I presents information on payments to losing candidates in 1986 Senate elections under the circumstances you describe. In providing this information the Commission has made no evaluation of the likelihood of these or similar circumstances if Amendment 1405 were enacted. Several additional assumptions are implicit in your question, however, which need to be stated so that the information presented is fully understood.

First, it is assumed that 67% of the money spent by winners in 1986 elections was devoted to the general election (current reporting requirements do not permit an accurate breakdown of actual primary vs. general expenditures) except when there was no primary opposition, when the full six-year total was attributed to the general election. Further, spending is defined here as disbursements for the full six year period minus any outstanding debts at the beginning of that period. This definition is generally consistent with the language in Amendment 1405 and allows for the payment of campaign obligations from a previous election.

In general, the losing candidate would have received no federal funding in seven states where the winner spent less than the limit. The losing candidate would have received two-thirds of the limit in seven additional states where the winner exceeded the limit by less than 33%. The subsidy in the remaining twenty states would have been equal to the limit for the state since the winning candidate exceeded the limit by more that 33%. The total dollars provided under these assumptions would have equalled $39.2 million.

No federal funds would have been provided to minor party candidates in the 1986 Senate elections because no minor party candidates met the threshold for eligibility. (None received contributions from individuals in an amount equal to 10 cents times the voting age population of the state or $150,000, whichever is greater, up to an amount that does not exceed $650,000.)

Additional Federal funds would have been provided to those candidates against whom independent expenditures were made or when such expenditures were made on behalf of the winner. The total amount of Federal funds provided under this provision would not have exceeded $1.1 million. (It is not possible to provide a precise estimate because no distinction is made between primary and general election independent expenditures.)

Exhibit I

Activity of 1986 Senate Campaigns and Consequences of Amendment 1405

State	VAP	Limit	winner spending (six year)	winner primary	2/3 of winner-total if no primary	excess general spending	subsidy	Matchable Indep. expend	Reports Required
Alabama	2,904,000	$1,271,200	$2,259,167		$1,513,642	1.190718919	$851,704	$45,710	9
Alaska	351,000	$950,000	$1,513,015	no primary	$1,513,015	1.592647368	$950,000	$5,000	13
Arizona	2,312,000	$1,093,600	$2,189,510	no primary	$2,189,510	2.00211229	$1,093,600	$16,076	13
Arkansas	1,713,000	$950,000	$1,800,828	no primary	$1,800,828	1.895608421	$950,000	$5,190	13
California	19,525,000	$5,500,000	$11,571,587		$7,752,963	1.409629689	$5,500,000	$105,225	13
Colorado	2,367,000	$1,110,100	$3,787,202		$2,537,425	2.28576285	$1,110,100	$21,795	13
Connecticut	2,418,000	$1,125,400	$2,613,845	no primary	$2,613,845	2.322591967	$1,125,400	$5,190	13
Delaware	465,000	$950,000							
Florida	8,830,000	$3,207,500	$6,173,663		$4,136,354	1.289588218	$2,149,025	$26,516	11
Georgia	4,318,000	$2,079,500	$2,779,297		$1,862,129	0.895469579	$0	$10,637	0
Hawaii	764,000	$950,000	$1,415,484	no primary	$1,415,484	1.489983158	$950,000	$11,357	13
Idaho	681,000	$950,000	$3,389,635	no primary	$3,389,635	3.568036842	$950,000	$234,755	13
Illinois	8,436,000	$3,109,000	$2,352,149		$1,575,940	0.506896053	$0	$15,499	0
Indiana	3,993,000	$1,597,900	$2,111,173	no primary	$2,111,173	1.321217223	$1,070,593	$5,624	12
Iowa	2,111,000	$1,033,300	$2,756,791	no primary	$2,756,791	2.667948321	$1,033,300	$1,128	13
Kansas	1,785,000	$950,000	$1,758,038		$1,177,885	1.239879432	$636,500	$12,650	10
Kentucky	2,703,000	$1,210,900	$1,321,029	no primary	$1,321,029	1.090948055	$811,303	$14,357	7
Louisiana	3,126,000	$1,337,800	$2,948,313		$1,975,370	1.476580737	$1,337,800	$11,357	13
Maine	860,000	$950,000							
Maryland	3,295,000	$1,388,500	$2,057,216		$1,378,335	0.992678949	$0	$5,439	0
Massachusett	4,458,000	$2,114,500							
Michigan	6,605,000	$2,651,250							
Minnesota	3,054,000	$1,316,200							
Mississippi	1,824,000	$950,000							
Missouri	3,702,000	$1,510,600	$5,376,255		$3,602,091	2.384543129	$1,510,600	$53,536	13

Montana	592,000	$950,000							
Nebraska	1,158,000	$950,000							
Nevada	716,000	$950,000	$2,055,756		$1,377,357	1.449848968	$950,000	$13,405	13
New Hampshir	745,000	$950,000	$1,004,611	no primary	$1,004,611	1.057485263	$636,500	$654	7
New Jersey	5,700,000	$2,425,000							
New Mexico	1,002,000	$950,000							
New York	13,414,000	$4,353,500	$9,137,318	no primary	$9,137,318	2.098844148	$4,353,500	$23,733	13
North Carolin	4,666,000	$2,166,500	$4,168,509		$2,792,901	1.289130408	$1,451,555	$11,357	11
North Dakota	488,000	$950,000	$907,374	no primary	$907,374	0.955130526	$0	$5,190	0
Ohio	7,871,000	$2,967,750	$1,507,009		$1,009,696	0.340222738	$0	$5,637	0
Oklahoma	2,377,000	$1,113,100	$3,318,394	no primary	$3,318,394	2.981218219	$1,113,100	$15,140	13
Oregon	1,976,000	$992,800	$7,462,476		$4,999,859	5.036118977	$992,800	$5,190	13
Pennsylvania	8,976,000	$3,244,000	$6,451,649		$4,322,605	1.332492241	$3,244,000	$143,640	13
State	VAP	Limit	winner spending (six year)	winner primary	2/3 of winner-total if no primary	excess general spending	subsidy	Matchable Indep. expend	Reports Required
Rhode Island	743,000	$950,000							
South Carolin	2,425,000	$1,127,500	$2,394,646	no primary	$2,394,646	2.123854545	$1,127,500	$16,007	13
South Dakota	502,000	$950,000	$3,485,870	no primary	$3,485,870	3.669336842	$950,000	$16,547	13
Tennessee	3,531,000	$1,459,300							
Texas	11,572,000	$3,893,000							
Utah	1,031,000	$950,000	$839,653	no primary	$839,653	0.883845263	$0	$10,624	0
Vermont	395,000	$950,000	$1,812,365	no primary	$1,812,365	1.907752632	$950,000	$130,357	13
Virginia	4,262,000	$2,065,500							
Washington	3,229,000	$1,368,700	$1,912,307		$1,281,246	0.936104106	$0	$35,172	0
West Virginia	1,420,000	$950,000							
Wisconsin	3,491,000	$1,447,300	$3,904,448	no primary	$3,904,448	2.697746148	$1,447,300	$124,655	13
Wyoming	349,000	$950,000							
							$39,246,180	$1,164,349	327

Question No. 2. Under the terms of Amendment 1405, do you have any estimates on how much additional paperwork would be required of the candidates and of the FEC under the amendment, compared with current law? Do you have any estimate of the cost in dollars and manpower that would be required to meet those additional demands, both for the FEC and for the campaigns of the candidates?

Answer: Several provisions of Amendment 1405 provide for additional reporting of activity by campaigns and others, along with certifications and notifications to be made by the Commission. Because many of these are triggered by levels of activity, it is difficult to accurately project the additional workload for either the campaigns or the Commission. In addition, the scope of many of these reports are not fully described in the text of the Amendment. Reports by candidates not eligible for subsidy who exceed 75% of the limit in activity, for example, may vary in scope from the current 24 hour notification of a contribution which is a simple statement declaring that a particular contribution has been received, to a more comprehensive report of receipts and disbursements.

In June of 1987 the Commission prepared for the Congressional Budget Office an estimate of administrative costs to implement the version of this legislation then under consideration. While many provisions of that legislation have been significantly revised in Amendment 1405, certain categories of activity pertaining to the processing of documents remain valid. The costs associated with more timely processing and review of reports were estimated to be approximately $393,000 in the first two-year cycle following enactment.

Question No. 3. How many reports and documents were filed with the FEC during the 1986 Senatorial elections, and what is the estimate of the number of hours it took for the campaigns to complete the reports and documents, and the number of hours it took the FEC to process them? What is the estimate of the number of pages involved in all these reports and documents? What are the comparable estimates, should Amendment 1405 become law?

Answer. Assuming that a Senatorial election comprises a six-year cycle commencing immediately after the general election in the previous cycle, the Commission received approximately 4,800 documents, comprised of over 133,700 pages, from 262 Senate candidates during the period 1981–86. These figures include new and amended financial disclosure reports, statements of candidacy and organization, as well as miscellaneous reports like 48–hour contribution notices and Commission requests for additional information. The breakdown by year is as follows:

YEAR	DOCUMENTS	PAGES
1981*	100	1,776
1982*	130	1,839
1983	129	2,470
1984	283	5,016
1985	441	23,323
1986	3,737	99,346

* [Figures for miscellaneous reports and requests for additional information are not available for the period 1981–82.]

The Commission has no information on the time campaigns and committees spend gathering information and filling out forms in compliance with the law. The Commission does, however, keep such figures for its own data processing. Based on statistics gathered during FY 1986 and 1987, the above documents required approximately 9,600 hours to process and review, for an overall average of 2 hours per document.

Note that for some documents (e.g., 48–hour contribution notices) the average time is shorter, since these documents require coding and entry of summary data and necessitate less review than longer, more detailed documents. Therefore, any attempt to predict the workload increase due to changes in the law must rest on certain assumptions about what kind of documents the change will produce as well as what kind of action by the Commission these documents will require.

To make such a projection, then, assume the following:

— Amendment 1405 does become law, and the elections in 1986 follow the scenario outlined in Question 1;

— Commission work rates in time per document do not change;

— the additional documents require full coding, entry, and review and do not differ significantly from required processing times for earlier documents; and

— that each new report results in one amended report (a ratio supported by past figures on new vs. amended reports).

As shown in the answer to Question 1, the introduction of Amendment 1405 under the assumptions of Question 1 would have produced 327 additional documents from those candidates in excess of the proposed limits. Amended reports would double this figure to 654, and the requirements for full review would be (654 documents x 2 hours/document) = 1,306 additional processing hours. [N.B. Independent expenditure reports would also be required from the 41 organizations/individuals who made such expenditures in excess of the statutory $10,000 limit. Since these reports depend on both the amount and timing of such activity, their numbers are impossible to project here.] This is only an estimate, however, and could change if:

— further changes are made in the reporting provisions of Amendment 1405;

— the number of candidates or actual activity in excess of the limit differs from the assumptions of Question 1;

— Commission resources for coding, entry, or review improve, thereby improving per document work rates (a possible occurrence, given the Commission's new data entry contract);

— the time required for each report deviates significantly from previous averages for similar documents, as a result of the character of the required reports; or

— the ratio of amendments to new reports changes.

If, on the other hand, one assumes that the new documents generated by the assumptions of Question 1 require only moderate coding, entry, and review (40 min./document), require fewer amendments (one for every ten originals), and result in fewer requests for additional information (15% of the figure above), the estimated increase in workload is approximately 240 hours, 20% of the more conservative figure given above.

Question No. 4. Under the terms of Amendment 1405, a candidate would receive additional spending authority in the event of a primary opponent. Do you see anything in Amendment

1405 that would prevent token primary opposition designed solely to increase the overall spending for that election year?

Answer. As background, it may be useful to examine the extent of primary election challenges under the existing circumstances. Eighteen of the 34 winners of 1986 Senate campaigns faced primary opposition under the current structure. Thirty of the 34 general election losers in 1986 faced a primary challenge. Thus, 48 of the 68 Senate major party general election candidates, (70%) participated in contested primaries in 1986. In 1984, 16 general election winners faced primary opposition among the 33 states holding Senate elections. Twenty-seven losers of general elections in 1984 faced primary opposition, yielding a total of 43 of 66 campaigns (65%) involved in primary's in 1984.

The primary election results of those who were challenged were as follows:

		ave. primary vote
1984	General election losers	58%
	General election winners	79%
1986	General election losers	61%
	General election winners	71%

This information suggests that primary election opposition is not uncommon, and that margins of victory by primary winners are reasonably large, even among those who eventually lose in the general election. The impact of the possibility described in your question should be judged within the context of these existing conditions.

Question No. 5. Would you prepare for us an analysis of the impact of Amendment 1405 on the super-rich candidate, and his or her opponent? We have had examples where an individual spent an estimated $10 million or so of the candidate's personal fortune to run for the Senate. If Amendment 1405 were law, and if a wealthy candidate in a state with a minimum spending limit spent $10 million of his own wealth on the campaign, how much taxpayer money would be made available to the non-rich opponent to counter the $10 million war chest?

Answer. Candidates who are eligible for benefits under Amendment 1405 are entitled to a grant equal to the expenditure limit for the state in the event that another candidate in the general election who is not eligible for benefits raises or obligates to spend in excess of 133% of the limit for that state. As such, a candidate in a state with the minimum spending limit would receive a grant of $950,000 under the conditions you describe.

In addition, that candidate would be entitled to broadcast media and mailing rates specified in Section 504, and restrictions on fundraising and expenditures for the general election would be removed for that candidate.

Question No. 6. One of the features of Amendment 1405 would be the provision offering low-cost mailing and television rates to candidates. Assuming a future campaign generated the same volume of mail and TV ads as were used in 1986, would you estimate the "savings" in campaign expenditures as a result of this "low cost" requirement? What percentage of the 1986 mail and TV spending would simply have been shifted into subsidies provided by the Post Office and TV stations?

Answer. Reporting requirements contained in the Federal Election Campaign Act do not define the method in which expenditures must be reported by campaigns. As a result, the meaning of disbursement information varies with each campaign, and an accurate estimate of spending on specific activities is therefore not possible. Some campaigns, for example, isolate the cost of broadcast time from other related costs (e.g. production) while other campaigns do not make that distinction. The same problem exists in terms of mailing costs, with some campaigns making a single entry containing both production and mailing of information while others separate these activities. There is considerable debate currently regarding actual spending levels on both media and mailing.

The percentage of spending shifted into subsidies is provided in the language of Amendment 1405 for first class mailing (i.e. 25% of the rate currently in effect). Percentage reductions for other classes are dependent upon the rate in effect.

Question No. 7. Much of the criticism of Amendment 1405 involves its failure to control so-called "soft money." Would you please estimate for us the amount of "soft-money" spent in 1986 in Senate races, and estimate the percentage of overall spending this would represent if all candidates adhered to the Amendment 1405 limits?

Answer. The Federal Election Campaign Act requires the disclosure of expenditures made by campaigns, committees, organizations, and individuals aimed at influencing the election of clearly identified Senate candidates, subject to reporting thresholds contained in the act. A common element shared by all definitions of "soft-money" is that it involves activity outside the scope of these requirements. As a result, this activity:

1) has no direct effect on clearly identified Senate campaigns;
and

2) is subject only to various state disclosure requirements.

The Commission is therefore unable to estimate the amount of soft money spent in 1986 or the percentage of overall spending represented by this non-Federal activity.

Question No. 8. One of the troubling features of Amendment 1405 is the provision that gives to one candidate the cash value of a campaign by an outside, independent group on behalf of the opponent. Is there any provision in Amendment 1405 that makes similar funds available to a minor party candidate? If so, how would that work and be determined? Under the terms of Amendment 1405, how would the FEC determine if an outside campaign was truly an outside group working hard for one candidate? For example, what would you do if the "Friends of Senator X" obligated $1 million for TV ads "on behalf of Senator X", then ended up, at the last minute, putting on ads that urged voters to support Senator X "because he is such a good friend of communism"?

Answer. Section 504(a)(1)(C) of the proposed legislation states that "all eligible candidates shall be entitled to-

> payments under section 506 equal to the aggregate total amount of independent expenditures made or obligated to be made in the general election involved, by any person in opposition to, or on behalf of an opponent of such eligible candidate, as such expenditures are reported by such person or determined by the Commission under subsection (f) of section 304."

If, therefore, any minor party candidate becomes eligible under provisions of this legislation, that candidate would receive these payments if independent expenditures were made on behalf of other candidates in that state.

The proposed legislation further states that any person making independent expenditures must file a report containing "a statement filed under penalty of perjury by the person making the independent expenditures, or by the person incurring the obligation to make such expenditures, as the case may be, that identifies the candidate whom the independent expenditures are actually intended to help elect or defeat." If the Commission determined that the actual intent of an individual or group was different from that presented in a certification, the enforcement provisions of the Act would be undertaken.

Question No. 9. Along the same line, how would the FEC judge when an outside campaign attained the $10,000 trigger level? How long would it take the FEC to make the determination that our fictional "Friends of Senator X" had really spent $150,000 to support Senator X? How long would it take to get a taxpayers' check to the campaign of Senator X's opponent? If the Friends of Senator X unleashed a major campaign on behalf of Senator X in September, would your analysis and determination get a check to the opponent in time to be of value in the November election?

Answer. The proposed legislation stipulates that "Independent expenditures by any person as referred to in paragraph (1) shall be reported within 24 hours after the aggregate amount of such expenditures incurred or obligated first exceeds $10,000." The proposal further states that "(t)he Commission shall, within 24 hours after such report is made, notify each candidate in the election involved who is eligible to receive benefits pursuant to section 504(a)(1)(C) of this Act, about each such report, and shall certify such eligibility to the Secretary of the Treasury for payment in full of any amount to which such candidate is entitled."

The Commission is fully cognizant of the very tight time requirements for some certifications required by this proposal, and has discussed them at some length with the Congressional Budget Office in preparation of cost estimates for implementation of similar legislation. We assume that self-certifications required of those participating in the process are sufficient for purposes of approving payments to eligible candidates. Detailed review by the Commission of all such activity would subsequently be undertaken.

Question 10. Based on the 1986 election, as a minimum, can you estimate the amount of "independent" spending that would occur each two years, and thus the cost of the taxpayer offset that would go to the opponents?

Answer. Given the relative volatility of independent expenditure activity—even within the constantly changing nature of the campaign finance process—it is difficult to make reliable predictions about future levels of such activity. Nevertheless, it is possible to examine the factors affecting past independent expenditure levels and their possible impact on future activity.

One obvious explanation for the rise of independent expenditure activity is simply that more committees are making these expenditures. In fact, the number of committees making independent expenditures on behalf of or against major party Senate candidates has increased from 42 in 1976 to 76 in the 1985–86 election cycle, a pattern of growth which parallels the rise in total activity from $197,204 to $5,122,790 in the same period. Therefore, it is probably safe to assume that as the number of committees spending independently increases, total independent spending will also increase.

Yet beneath that very simple observation, it appears that there have been significant changes in both the kinds of committees choosing to engage in independent activity and the degree to which these committees decide to become involved in the process. For much of the period 1980–1984, non–connected committees dominated independent spending to the extent that the list of top independent expenditors in each cycle would be almost exclusively non–conected committees. On a larger scale, the record is clearer: since 1976, when the Commission began collecting independent expenditure data, non–connected committees have been responsible for over half of the funds spent independently on Senate races. But beginning in 1984, and to a much larger extent in 1986, separate segregated funds, especially those connected with associations, have made significant independent expenditures. For the first time in 1986, association PACs spent more independently than did non–connected committees, as they were responsible for more than 50% of the approximately $5.2 million in independent expenditure activity for that cycle. This shift toward more institutionalized participants may reduce the volatility associated with non–connected committees and lead to increased growth in independent spending in future cycles.

Section 504(a)(C) of the proposed amendment provides for payments to eligible candidates if independent expenditures are made against the candidate or on behalf of the opponent. The total of such funds available in 1986—under the terms of the proposal and subject to the assumptions in Question 1—would have been less than $1.1 million. [See Question 1 and the accompanying figures for details.]

Question No. 11. What is your analysis of whether Amendment 1405 would attract or deter the entrance into Senatorial elections of independent, minor party candidates? Because of the potential of Federal funds, is Amendment 1405 likely to lure more and more candidates into each campaign?

Answer. In response to Question 1 we noted that no minor party candidates would have qualified for Federal funds in the 1986 Senate elections given the electoral circumstances of that election. The threshold requirements for fundraising in small amounts from individuals within the state meant that no minor party candidates met the eligibility requirements (including John Dyson in New York).

The experience of Presidential campaigns since 1976, when Federal funds first became available, also suggests that a large scale increase in the number of candidates should not be considered an inevitable consequence of public financial support.

QUESTIONS SUBMITTED BY SENATOR ALFONSE M. D'AMATO

FUNDRAISING EXEMPTION

Question. Recently the Commission voted 4–2 to permit allocation of one–half the cost of certain television advertising in the Iowa caucuses to "fund–raising costs," not chargeable against the applicable state limits. Chairman Josefiak, you voted with the majority in that decision. Do you feel that such solomonic logic is adequate, or is further guidance through rulemaking advisable?

Answer. Regarding the Commission's Advisory Opinion 1988–6, the so-called 50% fundraising exemption rule, it is my view that the Commission based that Opinion on the majority's interpretation of the law, the Commission's current regulations and practice.

Under the Presidential Primary Funding scheme, the law allows a committee to spend an additional 20% for fundraising over the Presidential primary limit.

In practical terms, this means that in 1988 a publicly-financed Presidential candidate in the primary can spend approximately 23 million dollars plus another 4.6 million dollars for fundraising for a total of 27.6 million dollars. The Commission's regulations allow campaign expenses to fall under the fundraising exemption if they are "reasonably related to" or "associated with" the solicitation of contributions. In my view, the Commission could certainly allow a deduction of 100% of the cost of a fundraising letter, even though 95% of that letter would be political rhetoric, since the letter involves a solicitation. The same would be true of a fundraising event. However, the Commission has taken a different view when dealing with media political advertising. In the past, we have not allowed a 100% allocation for a typical political ad, even though it contained a solicitation. I personally would not sanction such an allocation unless the media solicitation were the equivalent of a fundraising telethon.

Our regulations require, when it comes to allocating between fundraising and political activity, that a "reasonable" standard be applied. Without further specificity in our regulations, and because of past practice, the majority of the Commission believed that it was reasonable to consider that the advertisement in the advisory opinion request which contained a solicitation had a dual purpose and therefore the Committee could allocate that expenditure on a 50/50 basis.*

I should also state for the record that the Commission has requested that Congress consider eliminating this fundraising exemption and if necessary raise the overall spending limit in order to eliminate the need to allocate. Current law requires the campaigns to come up with so-called reasonable allocation formulas. In some cases, the Commission will decide that these formulas are unreasonable, and will require a repayment to the U.S. Treasury if a limit is exceeded. Even in cases where the Commission decides that the formulas are reasonable, others may disagree.

The Commission could certainly modify its regulations to specify exactly how a Presidential campaign should allocate a political ad which contained a solicitation. At the very least, as a result of Advisory Opinion 1988-6, however, the Commission should stipulate in its regulations what it will consider a legitimate solicitation in order to allocate any expenses to the fundraising exemption.

- In its after the fact audit report, the Commission allowed the 1984 John Glenn for President Committee to allocate 50% of an advertisement to the fundraising exemption that contained a solicitation based upon a dual purpose theory.

STATE-BY-STATE EXPENDITURE LIMITS

Question. In the course of the recent debate on campaign finance reform many questioned the appropriateness or usefulness of the current state-by-state presidential primary expenditure limits. These limits have given rise to famous abuses, such as the spectacle of campaign workers sneaking across state lines to sleep in motels on the other side so that their per diems are not charged against the limits. Do either of you believe these limits, whatever their original purpose, are still useful? If so, on what basis? If not, what would you recommend in their place?

Answer. The Commission has requested that Congress consider eliminating the state-by-state limits and merely maintain the overall spending limit for the primary cycle. The Commission requested Congress consider this because of the administrative burden it places on the Agency. Most of our auditors' time relating to the Presidential primary campaigns is spent reviewing the state-by-state expenses of the Presidential candidates. The campaigns themselves spend a great deal of time coming up with formulas to allocate expenses among the various states. The Commission may disagree with these formulas, resulting in disputes between the Commission and campaigns as to what funds must be repaid to the U.S. Treasury, and thereby prolonging the audit process.

Again, the Commission made its recommendation based on the administrative burdens to the campaigns and to the Agency, but Congress may very well decide for policy reasons that it does not want a Presidential campaign spending millions of dollars in any one state, especially the early primaries.

I should make clear that the Commission intends to enforce the state-by-state spending limits as long as they remain in the law. Even though we may allow for a certain amount of flexibility in the regulations, we expect campaigns to abide by those regulations. It is very important that all publicly-financed candidates play by the same rules.

APPENDIX

FEC PROVIDES FINANCIAL DATA ON 1988 CONGRESSIONAL CANDIDATES

WASHINGTON — With the first 1988 Congressional primaries just weeks away, the Federal Election Commission has prepared a summary of financial activity through December 31, 1987, for Senate and House candidates. During the last calendar year, Congressional candidates raised more than $118.6 million and spent nearly $66.2 million. The report, which looks at 65 Senate candidates and 584 House candidates, also provides an overview of money raised and spent by Senate incumbents, dating back to their last election in 1982.

A summary table breaks out the data for Senate and House candidates by party as well as by candidate status (incumbent/challenger/open seat), and includes the financial activity from four special elections. Following that chart are lists showing the 50 top money raisers and spenders, for both the Senate and House, as well as those candidates who have received the most funds from individuals and political committees, and those with the most cash-on-hand and outstanding debts. Note that candidates involved in special elections may show greater amounts of financial activity in 1987 than other candidates. Also, some candidates have changed plans since the first of this year: retiring, running for a different office, or reconsidering an earlier decision. As a result, the classification of candidates may change as time goes on.

On subsequent pages, individual Senate candidates are listed with total receipts and disbursements for each two-year cycle during which they reported financial activity. Transfers of funds between committees of the same campaign have been subtracted. Contributions from individuals and PAC's are listed for each cycle.* The cash-on-hand and debts owed by each campaign are provided for the end of each two-year cycle from December 31, 1982, through December 31, 1987. Some of the financial activity reported during the six-year period may relate to a prior election and should not automatically be presumed to be part of the candidate's 1988 election effort.

The final pages detail the finances of House candidates for calendar year 1987. Data include total receipts and disbursements, contributions from individuals and PAC's, cash-on-hand and debts owed by the committee. Again, transfers between committees of the same campaign have been subtracted.

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*PAC contributions for 1984 and 1986 are as reported by PAC's. All other information is taken from the summary pages of the reports filed by the candidates' campaigns.

Financial Activity of 1987-88 House and Senate Campaigns from January 1 1/ to December 31, 1987

Candidate	Number	Net 2/ Receipts	Individual Contributions	Other 3/ Ctte's	Net 2/ Disbursements	Cash on 4/ Hand	Debts 4/ Owed By
Senate	65	$50,851,606	$33,926,647	$13,856,358	$19,716,335	$42,991,984	$4,930,558
Democrats	34	$29,013,744	$19,047,923	$8,770,208	$8,943,132	$26,098,517	$4,392,477
Incumbents	15	$23,644,998	$14,932,090	$7,890,984	$6,734,692	$22,814,582	$3,893,243
Challengers	12	$4,476,368	$3,613,422	$727,274	$1,874,032	$2,602,331	$434,495
Open Seats 5/	7	$892,378	$502,411	$151,950	$334,408	$681,604	$64,739
Republicans	30	$21,823,979	$14,865,931	$5,085,150	$10,762,360	$16,890,437	$538,081
Incumbents	12	$15,070,441	$9,892,034	$4,411,626	$6,754,383	$13,394,226	$272,901
Challengers	14	$5,122,972	$4,371,655	$315,254	$3,523,165	$2,137,784	$260,826
Open Seats 5/	4	$1,630,566	$602,242	$358,270	$484,812	$1,358,427	$4,354
Other	1	$13,883	$12,793	$1,000	$10,843	$3,030	$0
House 6/	584	$67,529,352	$31,394,480	$24,931,210	$46,335,902	$67,073,392	$9,635,183
Democrats	351	$43,688,079	$18,215,616	$16,949,332	$30,643,146	$41,125,640	$7,595,608
Incumbents	253	$35,956,474	$15,275,155	$16,401,180	$24,497,830	$39,273,547	$3,653,695
Challengers	66	$2,359,939	$1,302,456	$208,473	$1,134,357	$1,155,495	$770,119
Open Seats 5/	32	$5,371,666	$1,638,005	$339,679	$5,010,959	$696,598	$3,171,794

Republicans	232	$23,795,459	$13,136,798	$7,981,878	$15,646,790	$25,947,905	$2,039,575
Incumbents	168	$21,549,314	$11,772,430	$7,877,384	$14,111,165	$25,188,523	$1,385,530
Challengers	43	$973,546	$661,265	$34,602	$613,437	$389,415	$457,236
Open Seats 5/	21	$1,272,599	$703,103	$69,892	$922,188	$369,967	$196,809
Other	1	$45,814	$42,066	$0	$45,966	($153)	$0
Grand Total	649	$118,380,958	$65,321,127	$38,787,568	$66,052,237	$110,065,376	$14,565,741

1/ Figures are from 1/1/87 or whenever the campaign registered in 1987.

2/ Figures are total receipts and disbursements, as reported by the campaigns, minus any money transferred between committees of the same campaign.

3/ Figures are as reported by the campaigns and are comprised mostly of PAC funds, but include money contributed by other candidates' committees.

4/ Figures are as of 12/31/87, or the latest report filed by the campaign.

5/ Open seat races are those in which the incumbent is not seeking re-election.

6/ Figures include financial activity of special election candidates in California 5th, Connecticut 4th, Louisiana 4th, and Tennessee 5th.

1987
TOP 50 SENATE CAMPAIGNS - RECEIPTS

1.	BENTSEN, LLOYD	TX	DEM	I	$4,735,516
2.	WILSON, PETE	CA	REP	I	$3,440,037
3.	METZENBAUM, HOWARD	OH	DEM	I	$2,990,456
4.	LAUTENBERG, FRANK	NJ	DEM	I	$2,323,953
5.	RIEGLE, DONALD	MI	DEM	I	$1,792,459
6.	VOINOVICH, GEORGE	OH	REP	C	$1,729,730
7.	DAWKINS, PETER	NJ	REP	C	$1,701,821
8.	SASSER, JAMES	TN	DEM	I	$1,677,541
9.	DANFORTH, JOHN	MO	REP	I	$1,623,783
10.	DURENBERGER, DAVID	MN	REP	I	$1,565,894
11.	MCCARTHY, LEO	CA	DEM	C	$1,563,417
12.	MITCHELL, GEORGE	ME	DEM	I	$1,516,634
13.	MOYNIHAN, DANIEL	NY	DEM	I	$1,441,725
14.	HEINZ, JOHN	PA	REP	I	$1,408,392
15.	LUGAR, RICHARD	IN	REP	I	$1,373,606
16.	KENNEDY, EDWARD	MA	DEM	I	$1,342,373
17.	HATCH, ORRIN	UT	REP	I	$1,322,187
18.	DECONCINI, DENNIS	AZ	DEM	I	$1,298,517
19.	BINGAMAN, JEFF	NM	DEM	I	$1,193,932
20.	LICHT, RICHARD	RI	DEM	C	$1,028,167
21.	BYRD, ROBERT	WV	DEM	I	$927,999
22.	HECHT, CHIC	NV	REP	I	$908,582
23.	WEICKER, LOWELL	CT	REP	I	$872,584
24.	HUMPHREY, HUBERT III	MN	DEM	C	$794,992
25.	CHAFEE, JOHN	RI	REP	I	$780,311
26.	BURDICK, QUENTIN	ND	DEM	I	$758,166
27.	LOTT, TRENT	MS	REP	O	$713,554
28.	ROTH, WILLIAM	DE	REP	I	$689,177
29.	SARBANES, PAUL	MD	DEM	I	$660,757
+30.	MCEWEN, BOB	OH	REP	C	$634,444
31.	DAUB, HAL	NE	REP	C	$602,011
32.	WALLOP, MALCOLM	WY	REP	I	$543,519
33.	KARNES, DAVID	NE	REP	I	$542,369
34.	MATSUNAGA, SPARK	HI	DEM	I	$518,014
35.	MACK, CONNIE	FL	REP	O	$503,319
36.	BRYAN, RICHARD	NV	DEM	C	$450,226
37.	LIEBERMAN, JOSEPH	CT	DEM	C	$388,955
38.	BEARD, SAMUEL	DE	DEM	C	$352,317
39.	MICA, DAN	FL	DEM	O	$308,918
40.	JEFFORDS, JIM	VT	REP	O	$269,434
41.	PRESS, BILL	CA	DEM	C	$230,052
+42.	FONG EU, MARCH	CA	DEM	C	$225,445
43.	DOWDY, WAYNE	MS	DEM	O	$199,098
44.	MOLPUS, DICK	MS	DEM	O	$168,103
45.	ENGELEITER, SUSAN	WI	REP	O	$144,259
46.	GARVEY, ED	WI	DEM	O	$119,782
47.	NIXON, JAY	MO	DEM	C	$105,466
48.	ANDERSEN, WILLIAM	TN	REP	C	$101,462
49.	GRAY, WILLIAM	VT	DEM	O	$84,170
50.	LOWRY, MICHAEL	WA	DEM	O	$81,815

+Candidate is no longer seeking election to U.S. Senate.

1987
TOP 50 SENATE CAMPAIGNS - DISBURSEMENTS

1.	WILSON, PETE	CA	REP	I	$2,055,294
2.	VOINOVICH, GEORGE V	OH	REP	C	$1,470,289
3.	BENTSEN, LLOYD	TX	DEM	I	$1,316,390
4.	DURENBERGER, DAVE	MN	REP	I	$1,030,416
5.	MCCARTHY, LEO	CA	DEM	C	$874,524
6.	MOYNIHAN, DANIEL	NY	DEM	I	$775,186
7.	BINGAMAN, JEFF	NM	DEM	I	$681,878
+ 8.	MCEWEN, BOB	OH	REP	C	$664,211
9.	METZENBAUM, HOWARD M	OH	DEM	I	$657,207
10.	HEINZ, HENRY JOHN III	PA	REP	I	$657,119
11.	HATCH, ORRIN G	UT	REP	I	$644,605
12.	DAWKINS, PETER MILLER	NJ	REP	C	$627,396
13.	LUGAR, RICHARD G	IN	REP	I	$593,073
14.	HUMPHREY, HUBERT H III	MN	DFL	C	$539,837
15.	LAUTENBERG, FRANK R	NJ	DEM	I	$521,105
16.	BURDICK, QUENTIN N	ND	DEM	I	$504,174
17.	DANFORTH, JOHN CLAGGETT	MO	REP	I	$493,201
18.	KARNES, DAVID	NE	REP	I	$483,294
19.	KENNEDY, EDWARD M	MA	DEM	I	$462,713
20.	DAUB, HAL	NE	REP	C	$402,275
21.	SASSER, JAMES R	TN	DEM	I	$295,640
22.	MITCHELL, GEORGE JOHN	ME	DEM	I	$287,583
23.	DECONCINI, DENNIS	AZ	DEM	I	$263,435
+24.	FONG EU, MARCH	CA	DEM	C	$251,645
25.	WEICKER, LOWELL P JR	CT	REP	I	$242,312
26.	BEARD, SAMUEL S	DE	DEM	C	$234,780
27.	RIEGLE, DONALD W JR	MI	DEM	I	$221,595
28.	DOWDY, WAYNE	MS	DEM	O	$214,446
29.	LICHT, RICHARD A	RI	DEM	C	$208,700
30.	CHAFEE, JOHN L H	RI	REP	I	$202,114
31.	SARBANES, PAUL S	MD	DEM	I	$188,911
32.	MATSUNAGA, SPARK M	HI	DEM	I	$188,024
33.	MACK, CONNIE	FL	REP	O	$187,378
34.	PRESS, BILL	CA	DEM	C	$151,790
35.	JEFFORDS, JAMES MERRILL	VT	REP	O	$135,897
36.	HECHT, CHIC	NV	REP	I	$135,563
37.	ROTH, WILLIAM V JR	DE	REP	I	$135,328
38.	LOTT, TRENT	MS	REP	O	$114,303
39.	ANDERSEN, WILLIAM E	TN	REP	C	$99,333
40.	WALLOP, MALCOLM	WY	REP	I	$82,064
41.	BYRD, ROBERT CARLYLE	WV	DEM	I	$77,044
42.	VALENTINE, WILLIAM R "BILL"	NM	REP	C	$75,719
43.	WICKES, JOHN F JR	IN	DEM	C	$72,428
44.	MOLPUS, DICK	MS	DEM	O	$71,345
45.	GARVEY, EDWARD R	WI	DEM	O	$67,912
46.	BRYAN, RICHARD H	NV	DEM	C	$58,516
47.	NIXON, JAY	MO	DEM	C	$52,709
48.	MONTOYA, RICK	NM	REP	C	$51,265
49.	LIEBERMAN, JOSEPH I	CT	DEM	C	$47,981
50.	ENGELEITER, SUSAN S	WI	REP	O	$47,234

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1987
TOP 50 SENATE CAMPAIGNS - CONTRIBUTIONS FROM INDIVIDUALS

1.	BENTSEN, SENATOR LLOYD	TX	DEM	I	$3,271,377
2.	WILSON, PETE	CA	REP	I	$2,688,613
3.	METZENBAUM, HOWARD M	OH	DEM	I	$2,409,494
4.	LAUTENBERG, FRANK R	NJ	DEM	I	$1,721,016
5.	VOINOVICH, GEORGE V	OH	REP	C	$1,585,049
6.	DAWKINS, PETER MILLER	NJ	REP	C	$1,583,561
7.	MCCARTHY, LEO TARCISIUS	CA	DEM	C	$1,260,287
8.	DURENBERGER, DAVE	MN	REP	I	$1,126,162
9.	DANFORTH, JOHN CLAGGETT	MO	REP	I	$1,084,124
10.	KENNEDY, EDWARD M	MA	DEM	I	$1,059,350
11.	LUGAR, RICHARD G	IN	REP	I	$1,036,887
12.	RIEGLE, DONALD W JR	MI	DEM	I	$1,010,169
13.	MOYNIHAN, DANIEL PATRICK	NY	DEM	I	$957,545
14.	HEINZ, HENRY JOHN III	PA	REP	I	$935,025
15.	SASSER, JAMES R	TN	DEM	I	$934,578
16.	MITCHELL, GEORGE JOHN	ME	DEM	I	$832,681
17.	DECONCINI, DENNIS	AZ	DEM	I	$829,556
18.	LICHT, RICHARD A	RI	DEM	C	$751,057
19.	HATCH, ORRIN G	UT	REP	I	$715,390
20.	BINGAMAN, JEFF	NM	DEM	I	$655,672
21.	HUMPHREY, HUBERT H III	MN	DFL	C	$624,244
+22.	MCEWEN, BOB	OH	REP	C	$559,415
23.	WEICKER, LOWELL P JR	CT	REP	I	$504,959
24.	HECHT, CHIC	NV	REP	I	$496,910
25.	KARNES, DAVID	NE	REP	I	$419,393
26.	ROTH, WILLIAM V JR	DE	REP	I	$386,435
27.	CHAFEE, JOHN L H	RI	REP	I	$383,340
28.	SARBANES, PAUL S	MD	DEM	I	$372,249
29.	MACK, CONNIE	FL	REP	O	$349,635
30.	LIEBERMAN, JOSEPH I	CT	DEM	C	$348,183
31.	DAUB, HAL	NE	REP	C	$337,247
32.	BRYAN, RICHARD H	NV	DEM	C	$311,656
33.	MATSUNAGA, SPARK M	HI	DEM	I	$294,948
34.	BURDICK, QUENTIN N	ND	DEM	I	$280,292
35.	BEARD, SAMUEL S	DE	DEM	C	$274,341
+36.	FONG EU, MARCH	CA	DEM	C	$224,194
37.	PRESS, BILL	CA	DEM	C	$222,493
38.	BYRD, ROBERT CARLYLE	WV	DEM	I	$214,203
39.	MOLPUS, DICK	MS	DEM	O	$158,280
40.	LOTT, TRENT	MS	REP	O	$126,901
41.	WALLOP, MALCOLM	WY	REP	I	$114,796
42.	GARVEY, EDWARD R	WI	DEM	O	$84,133
43.	MICA, DANIEL A	FL	DEM	O	$79,795
44.	DOWDY, WAYNE	MS	DEM	O	$76,866
45.	ENGELEITER, SUSAN S	WI	REP	O	$76,800
46.	ASKEW, REUBIN O'D	FL	DEM	O	$75,300
47.	LOWRY, MICHAEL E	WA	DEM	O	$72,063
48.	GRAY, WILLIAM BARTON	VT	DEM	O	$70,637
49.	VIGNOLA, JOSEPH C	PA	DEM	C	$65,551
50.	ANDERSEN, WILLIAM E	TN	REP	C	$57,109

+Candidate is no longer seeking election to U.S. Senate.

1987
TOP 50 SENATE CAMPAIGNS - CONTRIBUTIONS FROM PAC'S AND OTHER COMMITTEES

1.	BENTSEN, LLOYD	TX	DEM	I	$1,380,407
2.	SASSER, JAMES R	TN	DEM	I	$710,394
3.	BYRD, ROBERT CARLYLE	WV	DEM	I	$663,379
4.	MITCHELL, GEORGE JOHN	ME	DEM	I	$642,113
5.	RIEGLE, DONALD W JR	MI	DEM	I	$632,413
6.	WILSON, PETE	CA	REP	I	$563,513
7.	LAUTENBERG, FRANK R	NJ	DEM	I	$544,742
8.	BINGAMAN, JEFF	NM	DEM	I	$492,950
9.	METZENBAUM, HOWARD M	OH	DEM	I	$446,158
10.	DANFORTH, JOHN CLAGGETT	MO	REP	I	$439,467
11.	HATCH, ORRIN G	UT	REP	I	$569,982
12.	BURDICK, QUENTIN N	ND	DEM	I	$431,352
13.	DECONCINI, DENNIS	AZ	DEM	I	$431,162
14.	MOYNIHAN, DANIEL PATRICK	NY	DEM	I	$420,100
15.	HEINZ, HENRY JOHN III	PA	REP	I	$391,932
16.	DURENBERGER, DAVE	MN	REP	I	$382,130
17.	HECHT, CHIC	NV	REP	I	$373,200
18.	WALLOP, MALCOLM	WY	REP	I	$363,786
19.	CHAFEE, JOHN L H	RI	REP	I	$340,110
20.	WEICKER, LOWELL P JR	CT	REP	I	$336,756
21.	MCCARTHY, LEO TARCISIUS	CA	DEM	C	$282,526
22.	LUGAR, RICHARD G	IN	REP	I	$273,825
23.	ROTH, WILLIAM V JR	DE	REP	I	$273,825
24.	KENNEDY, EDWARD M	MA	DEM	I	$263,050
25.	SARBANES, PAUL S	MD	DEM	I	$260,549
26.	LICHT, RICHARD A	RI	DEM	C	$255,575
27.	MATSUNAGA, SPARK M	HI	DEM	I	$205,000
28.	JEFFORDS, JAMES MERRILL	VT	REP	O	$186,624
29.	HUMPHREY, HUBERT H III	MN	DFL	C	$151,863
30.	LOTT, TRENT	MS	REP	O	$127,250
31.	BRYAN, RICHARD H	NV	DEM	C	$124,023
32.	DOWDY, WAYNE	MS	DEM	O	$114,032
33.	KARNES, DAVID	NE	REP	I	$103,100
34.	DAWKINS, PETER MILLER	NJ	REP	C	$89,150
35.	VOINOVICH, GEORGE V	OH	REP	C	$82,998
36.	DAUB, HAL	NE	REP	C	$81,187
+37.	MCEWEN, BOB	OH	REP	C	$53,316
38.	MACK, CONNIE	FL	REP	O	$31,550
39.	WICKES, JOHN F JR	IN	DEM	C	$29,750
40.	GARVEY, EDWARD R	WI	DEM	O	$18,718
41.	NIXON, JAY	MO	DEM	C	$17,500
42.	ENGELEITER, SUSAN S	WI	REP	O	$12,846
43.	LOWRY, MICHAEL E	WA	DEM	O	$7,800
44.	LIEBERMAN, JOSEPH I	CT	DEM	C	$6,000
45.	PRESS, BILL	CA	DEM	C	$5,250
46.	ASKEW, REUBIN O'D	FL	DEM	O	$5,000
47.	KERREY, JOSEPH ROBERT	NE	DEM	C	$5,000
48.	ANDERSEN, WILLIAM E	TN	REP	C	$4,300
49.	FEINGOLD, RUSSELL DANA	WI	DEM	O	$3,000
50.	VALENTINE, WILLIAM R "BILL"	NM	REP	C	$2,618

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1987
TOP 50 SENATE CAMPAIGNS - CASH-ON-HAND

1.	BENTSEN, SENATOR LLOYD	TX	DEM	I	$4,055,211
2.	METZENBAUM, HOWARD M	OH	DEM	I	$3,790,011
3.	WILSON, PETE	CA	REP	I	$3,023,370
4.	RIEGLE, DONALD W JR	MI	DEM	I	$2,521,046
5.	LAUTENBERG, FRANK R	NJ	DEM	I	$2,054,182
6.	DANFORTH, JOHN CLAGGETT	MO	REP	I	$1,691,532
7.	MOYNIHAN, DANIEL PATRICK	NY	DEM	I	$1,586,154
8.	SASSER, JAMES R	TN	DEM	I	$1,561,521
9.	HEINZ, HENRY JOHN III	PA	REP	I	$1,552,807
10.	DECONCINI, DENNIS	AZ	DEM	I	$1,367,278
11.	MITCHELL, GEORGE JOHN	ME	DEM	I	$1,239,334
12.	LUGAR, RICHARD G	IN	REP	I	$1,190,734
13.	DAWKINS, PETER MILLER	NJ	REP	C	$1,074,424
14.	BYRD, ROBERT CARLYLE	WV	DEM	I	$1,026,186
15.	CHAFEE, JOHN L H	RI	REP	I	$1,015,329
16.	KENNEDY, EDWARD M	MA	DEM	I	$1,013,297
17.	DURENBERGER, DAVE	MN	REP	I	$1,004,291
18.	HATCH, ORRIN G	UT	REP	I	$987,179
19.	HECHT, CHIC	NV	REP	I	$927,958
20.	LICHT, RICHARD A	RI	DEM	C	$819,466
21.	WEICKER, LOWELL P JR	CT	REP	I	$775,230
22.	ROTH, WILLIAM V JR	DE	REP	I	$697,003
23.	MCCARTHY, LEO TARCISIUS	CA	DEM	C	$688,893
24.	VOINOVICH, GEORGE V	OH	REP	C	$676,822
25.	BINGAMAN, JEFF	NM	DEM	I	$663,550
26.	MATSUNAGA, SPARK M	HI	DEM	I	$629,691
27.	LOTT, TRENT	MS	REP	O	$599,250
28.	BURDICK, QUENTIN N	ND	DEM	I	$550,519
29.	WALLOP, MALCOLM	WY	REP	I	$479,936
30.	SARBANES, PAUL S	MD	DEM	I	$472,202
31.	BRYAN, RICHARD H	NV	DEM	C	$391,710
32.	JEFFORDS, JAMES MERRILL	VT	REP	O	$346,213
33.	LIEBERMAN, JOSEPH I	CT	DEM	C	$340,973
34.	MACK, CONNIE	FL	REP	O	$315,940
35.	MICA, DANIEL A	FL	DEM	O	$307,068
36.	HUMPHREY, HUBERT H III	MN	DFL	C	$255,154
37.	DAUB, HAL	NE	REP	C	$199,736
38.	DOWDY, WAYNE	MS	DEM	O	$158,382
39.	BEARD, SAMUEL S	DE	DEM	C	$117,536
40.	ENGELEITER, SUSAN S	WI	REP	O	$97,024
41.	MOLPUS, DICK	MS	DEM	O	$96,758
42.	MCEWEN, BOB	OH	REP	C	$90,836
43.	ASKEW, REUBIN O'D	FL	DEM	O	$80,300
44.	PRESS, BILL	CA	DEM	C	$78,262
45.	GRAY, WILLIAM BARTON	VT	DEM	O	$69,239
46.	KARNES, DAVID	NE	REP	I	$59,075
47.	LOWRY, MICHAEL E	WA	DEM	O	$58,983
48.	VIGNOLA, JOSEPH C	PA	DEM	C	$53,189
49.	NIXON, JAY	MO	DEM	C	$52,756
50.	KERREY, JOSEPH ROBERT	NE	DEM	C	$51,819

1987
TOP 50 SENATE CAMPAIGNS - DEBTS OWED BY

1.	LAUTENBERG, FRANK R	NJ	DEM	I	$3,542,011
2.	MCCARTHY, LEO TARCISIUS	CA	DEM	C	$210,047
3.	BINGAMAN, JEFF	NM	DEM	I	$309,141
4.	WILSON, PETE	CA	REP	I	$178,652
5.	WICKES, JOHN F JR	IN	DEM	C	$94,362
6.	BEARD, SAMUEL S	DE	DEM	C	$74,879
7.	VALENTINE, WILLIAM R "BILL"	NM	REP	C	$60,919
8.	DURENBERGER, DAVE	MN	REP	I	$57,177
9.	ANDERSEN, WILLIAM E	TN	REP	C	$44,819
10.	GARVEY, EDWARD R	WI	DEM	O	$39,739
11.	KARNES, DAVID	NE	REP	I	$37,072
12.	MORRIS, JAMES PAXTON "CORKY"	NM	REP	C	$29,327
13.	HUBER, ROBERT JAMES	MI	REP	C	$26,942
14.	GRAY, WILLIAM BARTON	VT	DEM	O	$25,000
15.	LIEBERMAN, JOSEPH I	CT	DEM	C	$24,751
16.	KELLEY, DALE RUSSELL	TN	REP	C	$24,500
17.	NIXON, JAY	MO	DEM	C	$22,603
18.	DAWKINS, PETER MILLER	NJ	REP	C	$22,397
19.	DECONCINI, DENNIS	AZ	DEM	I	$19,776
20.	SNEAD, EDWIN DESTEIGUER "NED"	TX	REP	C	$15,000
21.	SASSER, JAMES R	TN	DEM	I	$13,755
22.	MONTOYA, RICK	NM	REP	C	$13,751
23.	MITCHELL, GEORGE JOHN	ME	DEM	I	$8,560
24.	MOLPUS, DICK	MS	DEM	O	$8,495
25.	SYDNESS, STEVEN KRIS	ND	REP	C	$7,799
26.	MACK, CONNIE	FL	REP	O	$4,354
27.	PRESS, BILL	CA	DEM	C	$4,000
28.	VIGNOLA, JOSEPH C	PA	DEM	C	$2,000
29.	LICHT, RICHARD A	RI	DEM	C	$1,853

NO OTHER SENATE CANDIDATES REPORTED OUTSTANDING DEBTS AS OF DECEMBER 31, 1987

1987
Top 50 House - Receipts

Name	State	Dist	Party	Inc Open Chl	Receipts
*1. BREDESEN, PHILIP NORMAN	TN	05	DEM	O	$1,737,512
*2. ESKIND, JANE G	TN	05	DEM	O	$1,433,499
*3. PELOSI, NANCY	CA	05	DEM	I	$1,267,500
*4. CLEMENT, ROBERT NELSON	TN	05	DEM	I	$708,024
5. LEVINE, MEL	CA	27	DEM	I	$677,184
6. KENNEDY, JOSEPH P II	MA	08	DEM	I	$671,711
7. DIOGUARDI, JOSEPH J	NY	20	REP	I	$670,570
8. MCEWEN, BOB	OH	06	REP	I	$634,444
9. MOODY, JIM	WI	05	DEM	I	$542,378
*10. NIEDERMEIER, CHRISTINE MARIE	CT	04	DEM	O	$519,138
11. ROSTENKOWSKI, DAN	IL	08	DEM	I	$475,012
12. COELHO, ANTHONY LEE	CA	15	DEM	I	$436,616
13. DELLUMS, RONALD V	CA	08	DEM	I	$429,649
14. DORNAN, ROBERT KENNETH HON	CA	38	REP	I	$422,327
15. FROST, MARTIN	TX	24	DEM	I	$420,546
*16. BRITT, HARRY G	CA	05	DEM	O	$416,259
17. MATSUI, ROBERT T	CA	03	DEM	I	$410,765
18. BRYANT, JOHN WILEY	TX	05	DEM	I	$401,242
19. BARTLETT, STEVE	TX	03	REP	I	$385,701
20. ALEXANDER, WILLIAM VOLLIE JR	AR	01	DEM	I	$384,867
21. ROBINSON, TOMMY FRANKLIN	AR	02	DEM	I	$372,168
22. WRIGHT, JAMES C JR	TX	12	DEM	I	$346,170
*23. BECKER, JOHN T	CT	04	REP	O	$343,432
24. BARTON, JOE CONGRESSMAN	TX	06	REP	I	$335,866
25. MICHEL, ROBERT H	IL	18	REP	I	$327,441
26. SHAYS, CHRISTOPHER	CT	04	REP	I	$314,655
27. RANGEL, CHARLES B	NY	16	DEM	I	$311,713
28. SMITH, LAWRENCE JACK	FL	16	DEM	I	$307,582
29. DORGAN, BYRON L	ND	00	DEM	I	$304,441
30. HOWARD, JAMES J	NJ	03	DEM	I	$287,174
31. SMITH, LAMAR	TX	21	REP	I	$286,517
32. ANTHONY, BERYL FRANKLIN JR	AR	04	DEM	I	$278,978
33. BENTLEY, HELEN DELICH	MD	02	REP	I	$278,859
34. HERGER, WALTER WILLIAM (WALLY) JR	CA	02	REP	I	$270,321
35. SOLARZ, STEPHEN J	NY	13	DEM	I	$267,758
36. SCHUETTE, WILLIAM D	MI	10	REP	I	$265,180
37. SHUSTER, BUD	PA	09	REP	I	$264,764
38. ARMEY, RICHARD K	TX	26	REP	I	$262,066
39. PURSELL, CARL D	MI	02	REP	I	$261,713
40. SLAUGHTER, LOUISE MCINTOSH	NY	30	DEM	I	$259,894
41. COSTELLO, JERRY F	IL	21	DEM	O	$258,236
42. GIBBONS, SAM M	FL	07	DEM	I	$256,659
*43. HOLCOMB, JAMES TERRY	TN	05	REP	O	$254,424
44. KYL, JON L	AZ	04	REP	I	$247,783
45. SWINDALL, PATRICK L	GA	04	REP	I	$245,894
46. QUILLEN, JAMES HENRY	TN	01	REP	I	$244,326
47. PATTERSON, ELIZABETH JOHNSTON	SC	04	DEM	I	$241,362
48. GRAY, WILLIAM H III	PA	02	DEM	I	$238,218
49. MCMILLEN, C THOMAS	MD	04	DEM	I	$237,863
50. GREEN, BILL	NY	15	REP	I	$237,392

*Candidate participated in a special election

1987
Top 50 House - Disbursements

Name	State	Dist	Party	Inc Chl Open	Disbursements
* 1. BREDESEN, PHILIP NORMAN	TN	05	DEM	O	$1,709,867
* 2. ESKIND, JANE G	TN	05	DEM	O	$1,423,938
* 3. PELOSI, NANCY	CA	05	DEM	I	$1,261,740
* 4. CLEMENT, ROBERT NELSON	TN	05	DEM	I	$672,818
5. MCEWEN, BOB	OH	06	REP	I	$664,211
6. KENNEDY, JOSEPH P II	MA	08	DEM	I	$618,412
* 7. NIEDERMEIER, CHRISTINE MARIE	CT	04	DEM	O	$518,554
8. DELLUMS, RONALD V	CA	08	DEM	I	$454,832
9. WRIGHT, JAMES C JR	TX	12	DEM	I	$448,102
*10. BRITT, HARRY G	CA	05	DEM	O	$415,476
11. DORNAN, ROBERT KENNETH HON	CA	38	REP	I	$372,292
*12. BECKER, JOHN T	CT	04	REP	O	$343,431
13. ROBINSON, TOMMY FRANKLIN	AR	02	DEM	I	$338,960
14. ALEXANDER, WILLIAM VOLLIE JR	AR	01	DEM	I	$332,383
15. COELHO, ANTHONY LEE	CA	15	DEM	I	$323,790
16. BARTLETT, STEVE	TX	03	REP	I	$311,534
17. GRAY, WILLIAM H III	PA	02	DEM	I	$309,395
*18. SHAYS, CHRISTOPHER	CT	04	REP	I	$296,095
19. PATTERSON, ELIZABETH JOHNSTON	SC	04	DEM	I	$266,083
*20. HOLCOMB, JAMES TERRY	TN	05	REP	O	$252,157
21. ST GERMAIN, FERNAND J	RI	01	DEM	I	$249,703
22. SMITH, LAMAR	TX	21	REP	I	$245,016
23. BIAGGI, MARIO	NY	19	DEM	I	$243,078
24. AUCOIN, LES	OR	01	DEM	I	$240,791
25. BARTON, JOE CONGRESSMAN	TX	06	REP	I	$237,676
26. GINGRICH, NEWTON LEROY	GA	06	REP	I	$228,764
27. FLAKE, FLOYD H	NY	06	DEM	I	$225,389
28. RANGEL, CHARLES B	NY	16	DEM	I	$220,885
29. HERGER, WALTER WILLIAM (WALLY)	CA	02	REP	I	$217,622
30. TAUZIN, WILBERT JOSEPH II	LA	03	DEM	I	$215,839
31. DOWDY, C WAYNE	MS	04	DEM	I	$214,446
32. DORGAN, BYRON L	ND	00	DEM	I	$213,403
33. DIOGUARDI, JOSEPH J	NY	20	REP	I	$211,296
34. RUSSO, MARTIN A	IL	03	DEM	I	$205,536
35. GARCIA, ROBERT 'BOB' CONGRESSM	NY	18	DEM	I	$203,851
36. SOLARZ, STEPHEN J	NY	13	DEM	I	$199,465
37. GEJDENSON, SAM	CT	02	DEM	I	$197,150
38. ATKINS, CHESTER GREENOUGH	MA	05	DEM	I	$196,532
39. VANDER JAGT, GUY A	MI	09	REP	I	$195,350
40. LEVINE, MEL	CA	27	DEM	I	$193,347
41. ARMEY, RICHARD K	TX	26	REP	I	$192,805
42. MATSUI, ROBERT T	CA	03	DEM	I	$191,608
43. SWINDALL, PATRICK L	GA	04	REP	I	$190,339
44. FORD, HAROLD E	TN	09	DEM	I	$189,031
45. OAKAR, MARY ROSE	OH	20	DEM	I	$186,482
46. BENTLEY, HELEN DELICH	MD	02	REP	I	$183,061
47. KANJORSKI, PAUL E	PA	11	DEM	I	$182,956
48. GIBBONS, SAM M	FL	07	DEM	I	$181,454
49. MICHEL, ROBERT H	IL	18	REP	I	$176,858
50. STENHOLM, CHARLES W	TX	17	DEM	I	$176,847

*Candidate participated in a special election.

1987
Top 50 House - Contributions from Individuals

Name	State	Dist	Party	Inc Chl Open	Individuals
* 1. PELOSI, NANCY	CA	05	DEM	I	$612,766
2. MCEWEN, BOB	OH	06	REP	I	$559,415
3. LEVINE, MEL	CA	27	DEM	I	$550,053
4. DIOGUARDI, JOSEPH J	NY	20	REP	I	$506,207
5. KENNEDY, JOSEPH P II	MA	08	DEM	I	$501,507
* 6. BRITT, HARRY G	CA	05	DEM	O	$366,973
7. DORNAN, ROBERT KENNETH HON	CA	38	REP	I	$363,762
* 8. CLEMENT, ROBERT NELSON	TN	05	DEM	I	$347,422
9. ROBINSON, TOMMY FRANKLIN	AR	02	DEM	I	$290,600
10. DELLUMS, RONALD V	CA	08	DEM	I	$284,901
*11. NIEDERMEIER, CHRISTINE MARIE	CT	04	DEM	O	$275,138
12. ROSTENKOWSKI, DAN	IL	08	DEM	I	$259,535
13. COSTELLO, JERRY F	IL	21	DEM		$229,575
14. SMITH, LAMAR	TX	21	REP	I	$226,138
15. SOLARZ, STEPHEN J	NY	13	DEM	I	$218,719
*16. SHAYS, CHRISTOPHER	CT	04	REP	I	$216,072
17. MOODY, JIM	WI	05	DEM	I	$216,001
18. MARKEY, EDWARD JOHN	MA	07	DEM	I	$214,025
19. WRIGHT, JAMES C JR	TX	12	DEM	I	$212,425
20. FROST, MARTIN	TX	24	DEM	I	$211,707
21. CRANE, PHILIP MILLER	IL	12	REP	I	$207,938
22. PURSELL, CARL D	MI	02	REP	I	$207,616
23. SHUSTER, BUD	PA	09	REP	I	$207,305
24. ARMEY, RICHARD K	TX	26	REP	I	$202,455
25. ATKINS, CHESTER GREENOUGH	MA	05	DEM	I	$200,209
26. COELHO, ANTHONY LEE	CA	15	DEM	I	$198,580
27. BARTON, JOE CONGRESSMAN	TX	06	REP	I	$196,279
28. SMITH, LAWRENCE JACK	FL	16	DEM	I	$194,130
29. ALEXANDER, WILLIAM VOLLIE JR	AR	01	DEM	I	$193,108
*30. HOLCOMB, JAMES TERRY	TN	05	REP	O	$189,856
31. GREEN, BILL	NY	15	REP	I	$186,234
32. MATSUI, ROBERT T	CA	03	DEM	I	$183,477
33. BENTLEY, HELEN DELICH	MD	02	REP	I	$173,817
34. KYL, JON L	AZ	04	REP	I	$168,381
35. COURTER, JAMES A	NJ	12	REP	I	$156,841
36. HERGER, WALTER WILLIAM (WALLY)	CA	02	REP	I	$156,012
37. SWINDALL, PATRICK L	GA	04	REP	I	$153,041
38. GINGRICH, NEWTON LEROY	GA	06	REP	I	$147,410
39. RANGEL, CHARLES B	NY	16	DEM	I	$147,177
40. KOSTMAYER, PETER H	PA	08	DEM	I	$144,207
41. SCHUETTE, WILLIAM D	MI	10	REP	I	$143,390
42. GIBBONS, SAM M	FL	07	DEM	I	$142,958
43. HOWARD, JAMES J	NJ	03	DEM	I	$137,967
44. FLAKE, FLOYD H	NY	06	DEM	I	$137,862
45. KONNYU, ERNEST L	CA	12	REP	I	$136,797
46. HANSEN, JAMES V	UT	01	REP	I	$134,935
47. CHAPPELL, WILLIAM VENROE JR	FL	04	DEM	I	$131,590
48. BRYANT, JOHN WILEY	TX	05	DEM	I	$130,745
49. RITTER, DONALD L	PA	15	REP	I	$130,500
50. SAIKI, PATRICIA FUKUDA	HI	01	REP	I	$129,796

*Candidate participated in a special election.

1987
Top 50 House - Contributions from PAC's and Other Committees

Name	State	Dist	Party	Inc Chl Open	Other Cttes
* 1. PELOSI, NANCY	CA	05	DEM	I	$301,415
2. COELHO, ANTHONY LEE	CA	15	DEM	I	$223,058
3. DORGAN, BYRON L	ND	00	DEM	I	$207,846
4. ANTHONY, BERYL FRANKLIN JR	AR	04	DEM	I	$207,187
5. FROST, MARTIN	TX	24	DEM	I	$200,923
6. ROSTENKOWSKI, DAN	IL	08	DEM	I	$198,298
7. MICHEL, ROBERT H	IL	18	REP	I	$197,490
8. GRAY, WILLIAM H III	PA	02	DEM	I	$187,102
9. MATSUI, ROBERT T	CA	03	DEM	I	$186,200
10. MOODY, JIM	WI	05	DEM	I	$181,150
11. QUILLEN, JAMES HENRY	TN	01	REP	I	$178,100
12. OWENS, WAYNE	UT	02	DEM	I	$172,800
*13. NIEDERMEIER, CHRISTINE MARIE	CT	04	DEM	O	$163,244
14. OAKAR, MARY ROSE	OH	20	DEM	I	$157,675
15. ALEXANDER, WILLIAM VOLLIE JR	AR	01	DEM	I	$155,374
16. FLIPPO, RONNIE GENE	AL	05	DEM	I	$153,464
17. WAXMAN, HENRY A	CA	24	DEM	I	$152,941
18. RANGEL, CHARLES B	NY	16	DEM	I	$152,575
19. DIOGUARDI, JOSEPH J	NY	20	REP	I	$150,850
20. MCMILLEN, C THOMAS	MD	04	DEM	I	$149,256
21. JONTZ, JAMES	IN	05	DEM	I	$147,025
*22. CLEMENT, ROBERT NELSON	TN	05	DEM	I	$146,700
23. DUNCAN, JOHN J	TN	02	REP	I	$144,050
24. RUSSO, MARTIN A	IL	03	DEM	I	$142,100
25. WILSON, CHARLES	TX	02	DEM	I	$141,300
26. HOWARD, JAMES J	NJ	03	DEM	I	$141,060
27. STARK, FORTNEY HILLMAN JR	CA	09	DEM	I	$135,028
28. BROOKS, JACK	TX	09	DEM	I	$134,250
29. FAZIO, VIC	CA	04	DEM	I	$130,933
30. DYSON, ROY CONGRESSMAN	MD	01	DEM	I	$128,450
31. MADIGAN, EDWARD R	IL	15	REP	I	$128,235
32. BARTON, JOE CONGRESSMAN	TX	06	REP	I	$126,825
33. HOCHBRUECKNER, GEORGE J	NY	01	DEM	I	$126,234
34. HUBBARD, CARROLL JR	KY	01	DEM	I	$124,925
35. JOHNSON, TIMOTHY PETER	SD	00	DEM	I	$124,883
36. NAGLE, DAVID R	IA	03	DEM	I	$124,475
37. SIKORSKI, GERRY	MN	06	DFL	I	$123,228
38. LENT, NORMAN FREDERICK	NY	04	REP	I	$120,251
39. NEAL, STEPHEN L	NC	05	DEM	I	$119,750
40. PRICE, DAVID E	NC	04	DEM	I	$119,750
41. ST GERMAIN, FERNAND J	RI	01	DEM	I	$117,650
42. FLORIO, JAMES JOSEPH	NJ	01	DEM	I	$117,362
43. MCCLOSKEY, FRANK	IN	08	DEM	I	$116,547
44. KANJORSKI, PAUL E	PA	11	DEM	I	$116,460
45. BRYANT, JOHN WILEY	TX	05	DEM	I	$115,857
46. WRIGHT, JAMES C JR	TX	12	DEM	I	$114,350
47. DOWDY, C WAYNE	MS	04	DEM	I	$114,032
48. SAWYER, THOMAS C	OH	14	DEM	I	$112,095
49. SWIFT, ALLAN BYRON	WA	02	DEM	I	$110,812
50. BOUCHER, FREDERICK	VA	09	DEM	I	$109,100

*Candidate participated in a special election.

1987
Top 50 House - Cash on Hand

	Name	State	Dist	Party	Inc Chl Open	Cash on Hand
1.	DREIER, DAVID T	CA	33	REP	I	$1,106,695
2.	ROSTENKOWSKI, DAN	IL	08	DEM	I	$904,149
3.	SOLARZ, STEPHEN J	NY	13	DEM	I	$880,998
4.	LEVINE, MEL	CA	27	DEM	I	$847,138
5.	FLIPPO, RONNIE GENE	AL	05	DEM	I	$710,433
6.	RINALDO, MATTHEW J	NJ	07	REP	I	$652,715
7.	DUNCAN, JOHN J	TN	02	REP	I	$602,236
8.	MATSUI, ROBERT T	CA	03	DEM	I	$595,621
9.	HOPKINS, LARRY JONES	KY	06	REP	I	$578,187
10.	MOORHEAD, CARLOS JOHN	CA	22	REP	I	$554,724
11.	SCHUMER, CHARLES E	NY	10	DEM	I	$518,433
12.	ARCHER, WILLIAM R JR	TX	07	REP	I	$517,641
13.	BEVILL, TOM	AL	04	DEM	I	$517,126
14.	BARTLETT, STEVE	TX	03	REP	I	$512,872
15.	BROOMFIELD, WILLIAM S	MI	18	REP	I	$495,538
16.	FASCELL, DANTE B	FL	19	DEM	I	$493,242
17.	QUILLEN, JAMES HENRY	TN	01	REP	I	$492,117
18.	DIOGUARDI, JOSEPH J	NY	20	REP	I	$475,923
19.	GIBBONS, SAM M	FL	07	DEM	I	$465,763
20.	BARNARD, D DOUGLAS JR	GA	10	DEM	I	$462,132
21.	DICKINSON, WILLIAM LOUIS	AL	02	REP	I	$457,628
22.	LEATH, JAMES MARVIN	TX	11	DEM	I	$448,816
23.	ANTHONY, BERYL FRANKLIN JR	AR	04	DEM	I	$445,190
24.	LENT, NORMAN FREDERICK	NY	04	REP	I	$436,027
25.	DONNELLY, BRIAN J	MA	11	DEM	I	$422,376
26.	JENKINS, EDGAR L	GA	09	DEM	I	$393,085
27.	MADIGAN, EDWARD R	IL	15	REP	I	$391,015
28.	MCDADE, JOSEPH M	PA	10	REP	I	$385,410
29.	LAFALCE, JOHN J	NY	32	DEM	I	$383,887
30.	TORRICELLI, ROBERT G	NJ	09	DEM	I	$380,122
31.	MOODY, JIM	WI	05	DEM	I	$375,726
32.	BROOKS, JACK	TX	09	DEM	I	$373,320
33.	NICHOLS, BILL	AL	03	DEM	I	$372,468
34.	ROE, ROBERT	NJ	08	DEM	I	$372,318
35.	LANTOS, THOMAS P	CA	11	DEM	I	$367,125
36.	LAGOMARSINO, ROBERT	CA	19	REP	I	$360,990
37.	MINETA, NORMAN Y	CA	13	DEM	I	$358,162
38.	FAZIO, VIC	CA	04	DEM	I	$354,063
39.	FRENZEL, BILL	MN	03	IND	I	$352,183
40.	MILLER, GEORGE	CA	07	DEM	I	$351,523
41.	RANGEL, CHARLES B	NY	16	DEM	I	$350,588
42.	WHITTAKER, ROBERT R "BOB"	KS	05	REP	I	$347,951
43.	BRYANT, JOHN WILEY	TX	05	DEM	I	$342,006
44.	FROST, MARTIN	TX	24	DEM	I	$338,869
45.	HUBBARD, CARROLL JR	KY	01	DEM	I	$333,246
46.	ST GERMAIN, FERNAND J	RI	01	DEM	I	$329,067
47.	SCHULZE, RICHARD T	PA	05	REP	I	$327,353
48.	COELHO, ANTHONY LEE	CA	15	DEM	I	$326,157
49.	FOLEY, THOMAS S	WA	05	DEM	I	$323,932
50.	ROSE, CHARLES G III	NC	07	DEM	I	$323,610

1987
Top 50 House - Debts Owed By

Name	State	Dist	Party	Inc Chl Open	Debts By
* 1. BREDESEN, PHILIP NORMAN	TN	05	DEM	O	$1,835,292
* 2. ESKIND, JANE G	TN	05	DEM	O	$1,093,636
3. HAYES, JAMES ALISON	LA	07	DEM	I	$388,842
4. SISISKY, NORMAN	VA	04	DEM	I	$349,183
* 5. PELOSI, NANCY	CA	05	DEM	I	$240,000
6. GREEN, BILL	NY	15	REP	I	$237,000
7. KENNEDY, JOSEPH P II	MA	08	DEM	I	$212,058
8. COOPER, JAMES H S	TN	04	DEM	I	$207,696
9. MOAKLEY, JOHN JOSEPH	MA	09	DEM	I	$196,290
10. LANDAU, DAVID EDWARD	PA	07	DEM	C	$194,047
11. SPRATT, JOHN M JR	SC	05	DEM	I	$181,500
12. SMITH, LACEY THOMAS	KY	01	DEM		$167,322
13. MCMILLEN, C THOMAS	MD	04	DEM	I	$165,264
14. SCHEUER, JAMES H	NY	08	DEM	I	$151,250
15. BRYANT, JOHN WILEY	TX	05	DEM	I	$150,000
16. COYNE, JAMES R	PA	08	REP	C	$147,572
17. PATTERSON, ELIZABETH JOHNSTON	SC	04	DEM	I	$146,500
18. GRANDY, FREDERICK LAWRENCE	IA	06	REP	I	$142,271
*19. CLEMENT, ROBERT NELSON	TN	05	DEM	I	$140,000
20. SWEENEY, DAVID MCCANN (MAC)	TX	14	REP	I	$125,555
21. HOUGHTON, AMO	NY	34	REP	I	$96,106
22. BILBRAY, JAMES H	NV	01	DEM	I	$94,111
23. BALLENGER, THOMAS CASS	NC	10	REP	I	$83,000
24. OLIN, JAMES R	VA	06	DEM	I	$75,776
25. MOODY, JIM	WI	05	DEM	I	$70,000
26. FLAKE, FLOYD H	NY	06	DEM	I	$63,418
27. MEHIEL, DENNIS	NY	20	DEM		$61,990
28. GALLEGLY, ELTON	CA	21	REP	I	$59,799
29. SMITH, ROBERT C	NH	01	REP	I	$59,300
*30. NIEDERMEIER, CHRISTINE MARIE	CT	04	DEM	O	$57,649
31. SCHUETTE, WILLIAM D	MI	10	REP	I	$57,083
32. AUCOIN, LES	OR	01	DEM	I	$57,000
33. COHLMIA, KAY E	TX	05	REP		$55,000
*34. HOLCOMB, JAMES TERRY	TN	05	REP	O	$53,636
35. ROSE, CHARLES G III	NC	07	DEM	I	$50,000
36. SCHENKEN, JERRY	NE	02	REP	O	$50,000
37. PARKER, PAUL MICHAEL "MIKE"	MS	04	DEM		$50,000
38. SAVAGE, GUS	IL	02	DEM	I	$46,768
39. DAVIS, JACK	IL	04	REP	I	$44,932
40. OWENS, MAJOR ROBERT	NY	12	DEM	I	$44,499
41. FIELDS, PETE	IL	21	DEM		$44,405
*42. SILVER, CAROL RUTH	CA	05	DEM	O	$43,289
43. CHAPMAN, JIM	TX	01	DEM	I	$40,718
44. HOWARD, EDWARD L	PA	08	REP		$40,000
45. SMITH, LARKIN I	MS	05	REP	O	$40,000
46. FETZER, THOMAS HARRISON JR	NC	04	REP		$39,898
47. KANJORSKI, PAUL E	PA	11	DEM	I	$38,888
48. UPTON, FREDERICK STEPHEN	MI	04	REP	I	$38,789
49. ESPY, ALPHONSO MICHAEL	MS	02	DEM	I	$38,013
50. RICHARDSON, BILL	NM	03	DEM	I	$36,000

*Candidate participated in a special election.

Candidate		Receipts	Individual Contributions	Non Party Contributions	Candidate Support	Trans from Other Auth.	Disbursements	Ending Cash on Hand	Closing Debts
ARIZONA									
Dennis Deconcini	Dem								
82	Inc							$107,324	$14,312
1983-84		$18,260	$0	$6,507	$0	$0	$125,584	$22,679	$0
1985-86		$535,488	$362,605	$150,564	$0	$0	$203,291	$332,196	$3,089
1987-88		$1,298,517	$829,556	$431,162	$0	$0	$263,435	$1,367,278	$19,776
CALIFORNIA									
Pete Wilson	Rep								
82	Inc							$108,080	$158,968
1983-84		$885,703	$667,166	$191,425	$0		$714,421	$279,360	$17,556
1985-86		$2,331,921	$1,783,405	$380,732	$0	$0	$972,652	$1,638,627	$9,378
1987-88		$3,440,037	$2,688,613	$563,313	$0	$0	$2,055,294	$3,023,370	$178,652
Leo McCarthy	Dem								
1987-88	Chl	$1,563,417	$1,260,287	$282,526	$0	$0	$874,524	$688,893	$210,047
+March Fong Eu	Dem								
1987-88	Chl	$251,645	$224,194	$0	$0	$26,200	$251,645	$0	$0
William Press	Dem								
1987-88	Chl	$230,052	$222,493	$5,250	$1,000	$0	$151,790	$78,262	$4,000
CONNECTICUT									
Lowell Weicker	Rep								
82	Inc							$2,273	$44,895
1983-84		$77,425	$15,604	$36,072	$11,000	$0	$79,699	$0	$0
1985-86		$186,652	$120,530	$59,005	$0	$0	$41,693	$144,957	$0
1987-88		$872,584	$504,959	$336,756	$0	$0	$242,312	$775,230	$0
Joseph Lieberman	Dem								
1987-88	Chl	$388,955	$348,183	$6,000	$0	$0	$47,981	$340,973	$24,751
DELAWARE									
William Roth	Rep								
82	Inc							$48,019	$0
1983-84		$12,852	$1,253	$1,600	$0	$0	$14,144	$46,727	$0
1985-86		$116,595	$21,735	$79,250	$0	$0	$20,167	$143,154	$0
1987-88		$689,177	$386,435	$273,825	$0	$0	$135,328	$697,003	$0
Samuel Beard	Dem								
1987-88	Chl	$352,317	$274,341	$0	$74,879	$0	$234,780	$117,536	$74,879

+Candidate is no longer seeking election to U.S. Senate.

Candidate		Receipts	Individual Contributions	Non Party Contributions	Candidate Support	Trans from Other Auth.	Disbursements	Ending Cash on Hand	Closing Debts
FLORIDA									
Connie Mack	Rep								
1987-88	Opn	$503,319	$349,635	$31,550	$0	$106,479	$187,378	$315,940	$4,354
Reuben Askew	Dem								
1987-88	Opn	$80,300	$75,300	$5,000	$0	$0	$0	$80,300	$0
Dan Mica	Dem								
1987-88	Opn	$308,918	$79,795	$800	$0	$228,323	$1,850	$307,068	$0
HAWAII									
Spark Matsunaga	Dem								
82	Inc							$338,524	$0
1983-84		$75,532	$14,041	$8,358	$0	$0	$142,411	$271,645	$0
1985-86		$181,774	$45,595	$103,550	$0	$0	$153,719	$299,700	$0
1987-88		$518,014	$294,948	$205,000	$0	$0	$188,024	$629,691	$0
INDIANA									
Richard Lugar	Rep								
82	Inc							$53,814	$0
1983-84		$261,880	$204,821	$30,800	$0	$0	$84,700	$230,995	$0
1985-86		$316,510	$252,970	$30,210	$0	$0	$137,304	$410,200	$0
1987-88		$1,373,606	$1,036,887	$273,825	$0	$0	$593,073	$1,190,734	$0
John Wickes	Dem								
1987-88	Chl	$80,156	$46,015	$29,750	$3,605	$0	$72,428	$7,727	$94,362
MAINE									
George Mitchell	Dem								
82	Inc							$8,523	$51,820
1983-84		$92,061	$21,310	$66,922	$0	$0	$96,197	$4,387	$27
1985-86		$40,966	$6,265	$13,500	$0	$0	$35,072	$10,282	$19,361
1987-88		$1,516,634	$832,681	$642,113	$0	$0	$287,583	$1,239,334	$8,560
MARYLAND									
Paul Sarbanes	Dem								
82	Inc							$8,637	$27,668
1983-84		$88,207	$64,546	$9,547	$0	$0	$91,655	$689	$5,810
1985-86		$26,204	$23,405	$3,451	$0	$0	$26,536	$456	$0
1987-88		$660,757	$372,249	$260,549	$0	$0	$108,911	$472,202	$0

Candidate		Receipts	Individual Contributions	Non Party Contributions	Candidate Support	Trans from Other Auth.	Disbursements	Ending Cash on Hand	Closing Debts
MASSACHUSETTS									
Edward Kennedy	Dem								
82	Inc							$139,041	$700
1983-84		$51,046	$15,974	$15,250	$0	$0	$184,472	$5,615	$0
1985-86		$234,307	$211,000	$21,525	$0	$0	$105,201	$133,637	$0
1987-88		$1,342,373	$1,059,350	$263,050	$0	$0	$462,713	$1,013,297	$0
MICHIGAN									
Donald Riegle	Dem								
82	Inc							$263,075	$0
1983-84		$208,378	$60,903	$5,889	$0	$0	$98,097	$374,431	$0
1985-86		$688,684	$334,179	$256,014	$0	$0	$112,934	$950,181	$0
1987-88		$1,792,459	$1,010,169	$632,413	$0	$0	$221,595	$2,521,046	$0
Robert Huber	Rep								
1987-88	Chl	$20,000	$0	$0	$20,000	$0	$9,357	$10,642	$26,942
MINNESOTA									
David Durenberger	Rep								
82	Inc							$84,374	$99,327
1983-84		$788,980	$656,178	$67,394	$0	$0	$720,997	$157,829	$0
1985-86		$1,048,612	$790,523	$225,870	$0	$0	$737,629	$468,812	$11,520
1987-88		$1,565,894	$1,126,162	$382,130	$0	$0	$1,030,416	$1,004,291	$57,177
Hubert Humphrey III	Dem								
1987-88	Chl	$794,994	$624,244	$151,863	$0	$0	$539,837	$255,154	$0
Polly Mann	Oth								
1987-88	Chl	$13,664	$12,574	$1,000	$52	$0	$10,638	$3,026	$0
MISSISSIPPI									
Trent Lott	Rep								
1987-88	Opn	$713,554	$126,901	$127,250	$0	$429,759	$114,303	$599,250	$0
Wayne Dowdy	Dem								
1987-88	Opn	$199,098	$76,866	$114,032	$0	$0	$214,446	$158,382	$0
Dick Molpus	Dem								
1987-88	Opn	$168,103	$129,958	$600	$1,000	$28,322	$71,345	$96,758	$8,495

Candidate		Receipts	Individual Contributions	Non Party Contributions	Candidate Support	Trans from Other Auth.	Disbursements	Ending Cash on Hand	Closing Debts
MISSOURI									
**John Danforth	Rep								
82	Ino							$9,069	$91,194
** 1983-84		$127,483	$24,517	$99,350	$0	$0	$23,583	$13,018	$99,350
1985-86		$604,785	$439,697	$159,834	$0	$0	$43,863	$560,922	$0
1987-88		$1,623,625	$1,087,124	$436,497	$0	$0	$493,201	$1,691,532	$0
Jay Nixon	Dem								
1987-88	Chl	$105,466	$55,572	$17,500	$22,603	$0	$52,709	$52,756	$22,603
MONTANA									
John Melcher	Dem								
82	Ino							$3,059	$45,885
1983-84		$91,868	$17,793	$50,151	$0	$0	$90,460	$7,046	$5,430
1985-86		$144,409	$31,140	$105,575	$0	$0	$40,204	$111,250	$0
1987-88		$466,956	$88,960	$367,215	$0	$0	$293,807	$284,400	$0
NEBRASKA									
David Karnes	Rep								
1987-88	Ino	$542,369	$419,393	$103,100	$1,000	$0	$483,294	$59,075	$37,072
Hal Daub	Rep								
1987-88	Chl	$602,011	$337,247	$81,187	$0	$175,373	$402,275	$199,736	$0
Bob Kerrey	Dem								
1987-88	Chl	$71,073	$54,073	$5,000	$0	$0	$19,254	$51,819	$0
NEVADA									
Chic Hecht	Rep								
82	Ino							$44,648	$373,273
1983-84		$479,537	$230,630	$220,836	$0	$0	$480,944	$43,240	$0
1985-86		$163,236	$84,973	$62,284	$0	$0	$51,536	$154,940	$0
1987-88		$908,582	$496,910	$373,200	$0	$0	$135,563	$927,958	$0
Richard Bryan	Dem								
1987-88	Chl	$450,226	$311,656	$124,023	$0	$0	$58,516	$391,710	$0
NEW JERSEY									
Frank Lautenberg	Dem								
82	Ino							$40,343	$3,684,671
1983-84		$438,507	$221,666	$170,481	$0	$0	$474,908	$23,941	$3,476,573
1985-86		$544,270	$455,831	$71,000	$0	$0	$316,875	$251,334	$3,457,664
1987-88		$2,323,953	$1,721,016	$514,742	$0	$0	$521,105	$2,054,182	$3,542,011

**Danforth's '82 campaign committee became a PAC in July, 1984. Activity listed above for 1983-84 ends with March 31, 1984. The report filed by the PAC for the second quarter of '84 may contain both PAC and Senatorial campaign activity.

Candidate		Receipts	Individual Contributions	Non Party Contributions	Candidate Support	Trans from Other Auth.	Disbursements	Ending Cash on Hand	Closing Debts
NEW JERSEY(cont)									
Peter Dawkins	Rep								
1987-89	Chl	$1,701,821	$1,583,561	$89,150	$0	$0	$627,396	$1,074,424	$22,397
NEW MEXICO									
Jeff Bingaman	Dem								
82	Inc							$20,719	$754,668
1983-84		$881,201	$281,398	$186,616	$356,069	$0	$899,644	$2,276	$376,772
1985-86		$461,492	$342,419	$116,188	$0	$0	$312,271	$151,495	$272,623
1987-88		$1,193,932	$655,672	$492,950	$0	$0	$631,878	$663,550	$309,141
William Valentine	Rep								
1987-88	Chl	$30,413	$4,845	$68	$25,500	$0	$20,305	$10,107	$30,378
James Morris	Rep								
1987-88	Chl	$33,173	$33,058	$100	$0	$0	$31,805	$1,367	$29,327
Rick Montoya	Rep								
1987-88	Chl	$55,898	$55,338	$560	$0	$0	$51,265	$4,632	$13,751
Steve Schiff	Rep								
1987-88	Chl	$10,366	$8,500	$0	$1,866	$0	$9,079	$1,286	$0
NEW YORK									
Daniel Moynihan	Dem								
82	Inc							$116,647	$0
1983-84		$149,101	$105,023	$23,660	$0	$0	$199,387	$66,360	$0
1985-86		$1,312,574	$980,962	$312,279	$0	$0	$459,319	$919,615	$0
1987-88		$1,441,725	$957,545	$420,100	$0	$0	$775,186	$1,586,154	$0
NORTH DAKOTA									
Quentin Burdick	Dem								
82	Inc							$129,142	$0
1983-84		$93,980	$1,231	$3,700	$0	$0	$78,601	$144,520	$0
1985-86		$212,431	$51,440	$124,050	$0	$0	$60,422	$296,528	$0
1987-88		$758,166	$280,292	$431,352	$0	$0	$504,174	$550,519	$0
John Dalrymple	Rep								
1987-88	Chl	$47,123	$46,135	$0	$950	$0	$4,558	$42,565	$0
Steven Sydness	Rep								
1987-88	Chl	$31,648	$24,596	$1,000	$6,052	$0	$29,087	$2,560	$7,799

Candidate		Receipts	Individual Contributions	Non Party Contributions	Candidate Support	Trans from Other Auth.	Disbursements	Ending Cash on Hand	Closing Debts
OHIO									
Howard Metzenbaum	Dem								
82	Inc							$970,455	$1,784
1983-84		$215,732	$18,280	$999	$0	$0	$220,267	$965,920	$0
1985-86		$557,279	$289,887	$108,750	$0	$0	$66,439	$1,456,761	$0
1987-88		$2,990,456	$2,409,494	$446,153	$0	$0	$657,207	$3,790,011	$0
+ Bob McEwen	Rep								
1987-88	Chl	$634,444	$314,426	$53,316	$0	$0	$664,211	$90,836	$0
George Voinovich	Rep								
1985-86	Chl	$554,117	$489,732	$51,100	$0	$0	$136,735	$417,382	$0
1987-88		$1,728,945	$1,584,264	$82,998	$0	$0	$1,470,283	$676,044	$0
PENNSYLVANIA									
John Heinz	Rep								
82	Inc							$524,957	$0
1983-84		$359,108	$263,575	$9,900	$0	$0	$342,494	$546,166	$0
1985-86		$385,502	$292,124	$34,145	$0	$0	$180,443	$746,025	$0
1987-88		$1,724,406	$1,106,125	$414,432	$0	$0	$962,914	$1,552,807	$0
Joseph Vignola	Dem								
1987-88	Chl	$68,192	$65,551	$1,650	$0	$991	$15,003	$53,189	$2,000
RHODE ISLAND									
John Chafee	Rep								
82	Inc							$53,686	$0
1983-84		$152,832	$116,848	$10,926	$0	$0	$71,977	$134,541	$0
1985-86		$407,957	$229,107	$128,950	$0	$0	$105,367	$437,131	$0
1987-88		$782,011	$383,340	$340,110	$0	$0	$203,814	$1,015,329	$0
Richard Licht	Dem								
1987-88	Chl	$1,028,167	$751,057	$255,575	$3,244	$0	$208,700	$819,466	$1,853
TENNESSEE									
James Sasser	Dem								
82	Inc							$65,161	$107,251
1983-84		$166,545	$20,751	$91,384	$40,000	$0	$228,621	$3,085	$17,362
1985-86		$319,765	$144,035	$154,599	$16,000	$0	$143,230	$179,620	$4,342
1987-88		$1,677,541	$934,578	$710,394	$0	$0	$295,640	$1,561,521	$13,755
William Andersen	Rep								
1987-88	Chl	$101,462	$57,109	$4,300	$36,046	$2,574	$99,333	$2,129	$44,819

+Candidate is no longer seeking election to U.S. Senate.

Candidate		Receipts	Individual Contributions	Non Party Contributions	Candidate Support	Trans from Other Auth.	Disbursements	Ending Cash on Hand	Closing Debts
TENNESSEE(cont)									
Dale Kelley*	Rep								
1987-88	Chl	$58,126	$37,924	$25	$20,000	$0	$38,573	$19,552	$24,500
TEXAS									
Lloyd Bentsen	Dem								
82	Ind							$12,801	$75,400
1983-84		$432,871	$279,645	$161,679	$0	$0	$387,760	$57,910	$0
1985-86		$828,695	$613,428	$139,491	$0	$0	$250,520	$636,085	$0
1987-88		$4,735,516	$3,271,377	$1,380,407	$0	$0	$1,316,390	$4,055,211	$0
Ned Snead	Rep								
1987-88	Chl	$15,500	$500	$0	$15,000	$0	$10,224	$5,275	$15,000
UTAH									
Orrin Hatch	Rep							$911,181	
82	Ino							$95,204	$1,343
1983-84		$379,893	$187,842	$52,561	$0	$0	$333,433	$142,582	$0
1985-86		$349,225	$229,985	$98,590	$0	$0	$182,181	$309,597	$0
1987-88		$1,322,187	$430,596	$569,982	$0	$0	$644,605	$987,179	$0
VERMONT									
James Jeffords	Rep								
1987-88	Opn	$269,434	$48,906	$38,800	$0	$0	$129,903	$246,713	$0
William Gray	Dem								
1987-88	Opn	$84,170	$70,637	$2,000	$11,000	$0	$14,931	$69,239	$25,000
VIRGINIA									
WASHINGTON									
Michael Lowry	Dem								
1987-88	Opn	$81,815	$72,063	$7,800	$0	$0	$22,831	$58,983	$0
WEST VIRGINIA									
Robert Byrd	Dem								
82	Ind							[illegible]	$0
1983-84		$41,464	$610	$7,600	$0	$0	[illegible]	[illegible]	$0
1985-86		$90,661	$6,770	$75,250	$0	$0	$88,416	[illegible]	$0
1987-88		$927,999	$214,203	$663,379	$0	$0	$77,044	[illegible]	$0

Candidate		Receipts	Individual Contributions	Non Party Contributions	Candidate Support	Trans from Other Auth.	Disbursements	Ending Cash on Hand	Closing Debts
WISCONSIN									
Ed Garvey	Dem								
1987-88	Opn	$119,782	$84,133	$18,718	$14,000	$0	$67,912	$54,481	$58,993
Susan Engeleiter	Rep								
1987-88	Opn	$144,259	$76,800	$12,846	$0	$54,259	$47,234	$97,024	$0
Russell Feingold	Dem								
1987-88	Opn	$18,095	$15,095	$3,000	$0	$0	$12,329	$5,765	$0
WYOMING									
Malcolm Wallop	Rep							$19,080	$2,000
82	Inc								
1983-84		$28,174	$2,197	$2,700	$0	$0	$36,990	$10,264	$0
1985-86		$78,713	$31,919	$48,228	$0	$0	$70,495	$18,482	$0
1987-88		$543,519	$114,796	$363,786	$0	$0	$82,064	$479,936	$0

Financial Activity of 1987-88 House Campaigns Through 12/31/87

State	Dist	Name	Party	Inc/ Chl	Net Receipts	Individual Contributions	Other Ctte's	Net Disbursement	Cash on Hand	Debts By
AK	00	YOUNG, DONALD E	REP	I	$143,723	$64,051	$75,275	$120,415	$35,319	$2,265
AL	01	CALLAHAN, HERBERT L	REP	I	$157,092	$87,715	$60,100	$73,074	$240,255	$0
	02	DICKINSON, WILLIAM LOUIS	REP	I	$173,617	$70,740	$96,425	$67,574	$457,628	$0
	03	NICHOLS, BILL	DEM	I	$36,327	$660	$1,250	$20,475	$372,468	$0
	04	BEVILL, TOM	DEM	I	$121,471	$36,843	$58,100	$41,830	$517,126	$0
	05	FLIPPO, RONNIE GENE	DEM	I	$205,945	$23,415	$153,464	$99,459	$710,433	$0
	06	ERDREICH, BENJAMIN LEADE	DEM	I	$58,395	$1,200	$46,500	$47,085	$158,265	$0
	07	HARRIS, CLAUDE JR	DEM	I	$153,117	$60,424	$92,255	$97,363	$57,255	$10,000
AR	01	ALEXANDER, WILLIAM	DEM	I	$384,867	$193,108	$155,374	$332,383	$61,025	$8,000
	02	ROBINSON, TOMMY FRANKLIN	DEM	I	$372,168	$290,600	$81,568	$338,960	$82,574	$0
	03	HAMMERSCHMIDT, JOHN PAUL	REP	I	$107,833	$50,725	$47,200	$40,897	$235,370	$0
		STEWART, DAVID ALAN	DEM		$4,699	$4,699	$0	$4,641	$58	$0
		LINGLE, JIM	DEM		$9,721	$5,221	$0	$7,163	$2,557	$0
	04	ANTHONY, BERYL FRANKLIN	DEM	I	$278,978	$10,475	$207,187	$171,554	$445,190	$0
AS	00	SUNIA, FOFO I F	DEM	I	$0	$0	$0	$0	$390	$0
AZ	01	RHODES, JOHN JACOB III	REP	I	$139,461	$90,821	$48,025	$137,733	$6,954	$2,962
	02	UDALL, MORRIS K	DEM	I	$27,481	$7,840	$17,800	$18,027	$22,370	$0
	03	STUMP, BOB	REP	I	$30,674	$4,170	$3,750	$19,078	$181,775	$0
	04	KYL, JON L	REP	I	$247,783	$168,381	$74,739	$82,403	$174,433	$11,219
	05	KOLBE, JAMES T	REP	I	$79,468	$44,865	$29,588	$73,420	$27,895	$0
CA	01	BOSCO, DOUGLAS H	DEM	I	$112,342	$59,766	$34,114	$100,498	$12,497	$15,000
	02	HERGER, WALTER WILLIAM	REP	I	$270,321	$156,012	$105,986	$217,622	$71,288	$13,325
	03	MATSUI, ROBERT T	DEM	I	$410,765	$183,477	$186,200	$191,608	$595,621	$0
	04	FAZIO, VIC	DEM	I	$236,243	$98,048	$130,933	$152,772	$354,063	$0
	05	GEE, HOOVER MARK	REP		$0	$0	$0	$0	$0	$0
		PELOSI, NANCY	DEM	I	$1,267,500	$612,766	$301,415	$1,261,740	$5,759	$240,000
		BRITT, HARRY G	DEM	O	$416,259	$366,973	$28,835	$415,476	$783	$12,370
		SILVER, CAROL RUTH	DEM	O	$98,836	$55,858	$2,750	$98,327	$509	$43,289
		MAHER, BILL	DEM	O	$110,849	$97,826	$11,350	$110,849	$0	$0
		ROSS, HARRIET	REP	O	$40,293	$25,854	$5,875	$39,517	$0	$0
	06	BOXER, BARBARA	DEM	I	$156,565	$92,847	$57,385	$111,531	$179,501	$0
	07	MILLER, GEORGE	DEM	I	$184,547	$104,317	$63,608	$90,461	$351,523	$0
	08	DELLUMS, RONALD V	DEM	I	$429,649	$284,901	$30,630	$454,832	$128,075	$10,000
	09	STARK, FORTNEY HILLMAN	DEM	I	$223,699	$81,799	$135,028	$138,756	$122,508	$1,500
	10	EDWARDS, DON	DEM	I	$70,207	$34,779	$32,035	$59,019	$57,744	$0
	11	LANTOS, THOMAS P	DEM	I	$94,676	$49,006	$25,286	$80,828	$367,125	$0
	12	KONNYU, ERNEST L	REP	I	$213,916	$136,797	$68,875	$152,200	$65,855	$32,970
		GARRISON, JAMES A	DEM		$72,113	$71,897	$0	$42,856	$29,256	$0
		YEAMANS, ROBIN	DEM		$9,135	$7,855	$0	$9,060	$75	$3,101
		SIMMONS, SYLVIA	DEM		$32,090	$8,600	$0	$24,375	$7,714	$23,303
		CAMPBELL, THOMAS J	REP		$134,838	$123,684	$2,500	$41,698	$93,140	$30,950
		ESHOO, ANNA G	DEM		$49,898	$45,650	$4,200	$0	$49,898	$0
	13	MINETA, NORMAN Y	DEM	I	$235,760	$117,654	$95,639	$142,856	$358,162	$0
	14	SHUMWAY, NORMAN D	REP	I	$169,134	$107,182	$52,450	$131,176	$177,056	$0
		MALBERG, PATRICIA	DEM		$19,407	$8,336	$0	$18,407	$999	$10,860
	15	COELHO, ANTHONY LEE	DEM	I	$436,616	$198,580	$223,058	$323,790	$326,157	$0
	16	PANETTA, LEON EDWARD	DEM	I	$70,261	$10,175	$7,300	$37,152	$149,278	$0
	17	PASHAYAN, CHARLES JR	REP	I	$45,864	$17,150	$24,195	$37,282	$69,021	$0
	18	LEHMAN, RICHARD H	DEM	I	$91,600	$50,980	$38,060	$70,438	$28,261	$0

State	Dist	Name	Party	Inc/ Chl	Net Receipts	Individual Contributions	Other Ctte's	Net Disbursement	Cash on Hand	Debts By
CA	19	LAGOMARSINO, ROBERT	REP	I	$166,360	$112,338	$25,750	$77,859	$360,990	$0
		HART, GARY K	DEM		$123,759	$116,724	$0	$3,550	$120,209	$0
	20	THOMAS, WILLIAM MARSHALL	REP	I	$115,250	$46,268	$51,550	$74,267	$261,469	$0
	21	GALLEGLY, ELTON	REP	I	$117,992	$69,375	$46,780	$117,075	$41,323	$59,799
	22	MOORHEAD, CARLOS JOHN	REP	I	$147,901	$47,605	$68,058	$53,316	$554,724	$0
	23	BEILENSON, ANTHONY C	DEM	I	$51,951	$41,778	$0	$31,727	$25,902	$0
	24	WAXMAN, HENRY A	DEM	I	$223,186	$60,405	$152,941	$69,009	$256,058	$0
	25	ROYBAL, EDWARD R	DEM	I	$22,066	$110	$4,000	$20,231	$226,362	$0
	26	BERMAN, HOWARD L	DEM	I	$7,908	$658	$7,250	$24,735	$4,446	$0
	27	LEVINE, MEL	DEM	I	$677,184	$550,053	$75,150	$193,347	$847,138	$2,474
	28	DIXON, JULIAN C	DEM	I	$70,155	$42,738	$23,755	$50,816	$99,865	$0
	29	HAWKINS, AUGUSTUS F	DEM	I	$4,000	$0	$4,000	$8,024	$107,417	$0
	30	MARTINEZ, MATTHEW G	DEM	I	$43,886	$26,427	$16,550	$26,390	$60,020	$0
		RAMIREZ, RALPH ROY	REP		$42,770	$18,770	$2,000	$33,248	$9,521	$0
		RADLOVIC, MICHAEL MILAN	REP		$30,762	$27,162	$0	$10,651	$20,111	$2,250
	31	DYMALLY, MERVYN M	DEM	I	$145,720	$84,889	$51,700	$134,483	$15,026	$0
	32	ANDERSON, GLENN M	DEM	I	$166,364	$77,459	$79,200	$80,127	$132,792	$0
		KAHN, SANFORD W	REP		$7,655	$6,865	$150	$4,593	$3,062	$0
	33	DREIER, DAVID T	REP	I	$203,070	$99,762	$24,600	$46,204	$1,106,695	$0
	34	TORRES, ESTEBAN E	DEM	I	$101,797	$65,930	$23,750	$56,415	$170,076	$0
	35	LEWIS, JERRY	REP	I	$65,718	$7,220	$51,550	$52,585	$236,401	$0
	36	BROWN, GEORGE EDWARD JR	DEM	I	$64,536	$50,558	$11,475	$53,750	$48,172	$0
	37	MCCANDLESS, ALFRED A	REP	I	$6,334	$260	$5,750	$11,496	$46,621	$0
		PEARSON, JOHN CHARLES	DEM		$725	$25	$0	$725	$5	$936
		BOYAJIAN, PAUL	DEM		$7,067	$5,100	$0	$695	$6,371	$0
	38	DORNAN, ROBERT KENNETH M	REP	I	$422,327	$363,762	$27,565	$372,292	$89,541	$31,000
	39	DANNEMAYER, WILLIAM E	REP	I	$56,838	$14,149	$37,627	$71,043	$66,783	$0
	41	LOWERY, WILLIAM DAVID	REP	I	$190,463	$112,385	$68,396	$141,162	$121,008	$0
	43	PACKARD, RONALD C	REP	I	$68,191	$23,176	$35,740	$41,536	$125,786	$0
		GREENEBAUM, HOWARD	DEM		$7,135	$1,917	$0	$6,106	$1,028	$4,800
	44	BATES, JIM	DEM	I	$61,275	$34,790	$26,000	$50,202	$11,450	$1,000
		ACLE, LUIS JR	REP		$18,277	$4,925	$11,489	$15,455	$2,822	$1,753
	45	HUNTER, DUNCAN LEE	REP	I	$118,408	$64,866	$41,743	$159,072	$81,368	$0
CO	01	SCHROEDER, PATRICIA	DEM	I	$101,590	$50,904	$36,208	$63,742	$241,605	$0
	02	SKAGGS, DAVID E	DEM	I	$141,654	$57,710	$77,608	$72,892	$71,831	$9,691
	03	CAMPBELL, BEN NIGHTHORSE	DEM	I	$141,198	$42,872	$91,490	$69,104	$77,309	$0
	04	BROWN, HANK	REP	I	$45,160	$2,330	$35,800	$29,076	$125,805	$0
	05	HEFLEY, JOEL M	REP	I	$61,233	$27,245	$27,844	$21,420	$55,094	$0
		KRAMER, KENNETH B	REP		$23,030	$8,030	$0	$16,908	$6,121	$18,500
	06	SCHAEFER, DAN	REP	I	$41,413	$7,863	$31,390	$41,746	$44,096	$0
CT	01	KENNELLY, BARBARA B	DEM	I	$171,308	$77,270	$86,263	$52,737	$242,170	$0
	02	GEJDENSON, SAM	DEM	I	$206,993	$119,670	$62,875	$197,150	$16,428	$0
		CARBERRY, GLENN THOMAS	REP		$36,694	$10,508	$86	$13,740	$22,952	$25,500
	03	MORRISON, BRUCE A	DEM	I	$98,132	$30,081	$64,415	$82,557	$62,873	$20,400
		PATTON, GERARD B	REP		$15,226	$2,950	$0	$14,586	$640	$8,586
	04	NIEDERMEIER, CHRISTINE M	DEM	O	$519,138	$275,138	$163,244	$518,554	$6,571	$57,649
		MORTON, MARGARET E	DEM	O	$125,933	$94,669	$21,200	$129,878	$1,043	$12,591
		COLLINS, WILLIAM A	DEM	O	$35,473	$17,470	$0	$35,212	$0	$0
		SHAYS, CHRISTOPHER	REP	I	$314,655	$216,072	$53,640	$296,095	$37,509	$33,425

State	Dist	Name	Party	Inc/ Chl	Net Receipts	Individual Contributions	Other Ctte's	Net Disbursement	Cash on Hand	Debts By
CT	04	VAN NORSTRAND, R E	REP	O	$13,384	$12,035	$200	$13,301	$82	$0
		METSOPOULOS, JOHN G	REP	O	$15,437	$11,303	$1,850	$15,436	$0	$0
		GIUSTI, PAUL ANTHONY	REP	O	$18,826	$10,940	$1,000	$18,825	$0	$4,201
		NICKERSON, WILLIAM H	REP	O	$29,994	$27,350	$0	$29,994	$0	$0
		BECKER, JOHN T	REP	O	$343,432	$36,510	$100	$343,431	$0	$0
	05	ROWLAND, JOHN G	REP	I	$53,328	$25,818	$21,670	$28,523	$24,804	$0
	06	JOHNSON, NANCY LEE	REP	I	$66,838	$57,227	$8,650	$42,394	$53,310	$0
DC	00	FAUNTROY, WALTER EDWARD	DEM	I	$28,575	$8,275	$10,950	$31,138	$11,602	$0
DE	00	CARPER, THOMAS R	DEM	I	$119,801	$67,836	$44,945	$81,283	$71,302	$10,000
FL	01	HUTTO, EARL	DEM	I	$42,411	$3,945	$33,875	$38,272	$57,944	$0
	02	GRANT, BILL	DEM	I	$137,812	$74,625	$44,900	$87,837	$50,483	$0
	03	BENNETT, CHARLES EDWARD	DEM	I	$50,243	$5,031	$29,333	$6,482	$261,106	$2,740
	04	CHAPPELL, WILLIAM VENROE	DEM	I	$222,589	$131,590	$77,250	$99,175	$280,312	$0
	05	MCCOLLUM, BILL	REP	I	$145,171	$105,161	$19,750	$64,502	$302,698	$0
	06	MACKAY, BUDDY	DEM	I	$164,658	$96,401	$59,645	$72,944	$193,647	$0
	07	GIBBONS, SAM M	DEM	I	$256,659	$142,958	$89,950	$181,454	$465,763	$0
	08	YOUNG, C W BILL	REP	I	$23,800	$320	$3,000	$24,466	$306,243	$0
	09	BILIRAKIS, MICHAEL	REP	I	$136,346	$87,140	$48,225	$63,066	$85,342	$0
	10	IRELAND, ANDY	REP	I	$117,578	$58,424	$51,310	$81,739	$163,659	$0
	11	NELSON, BILL	DEM	I	$149,463	$80,143	$63,175	$132,507	$130,694	$0
	12	LEWIS, TOM	REP	I	$116,811	$73,961	$33,925	$100,694	$166,486	$0
	13	WILHELM, ROBERT U	REP	O	$56,601	$55,956	$500	$4,675	$51,925	$0
		GOSS, PORTER JOHNSTON	REP	O	$27,626	$24,626	$1,000	$3,733	$23,893	$0
		DOZIER, JAMES L	REP	O	$21,385	$8,885	$0	$11,178	$10,206	$12,500
	15	SHAW, E CLAY JR	REP	I	$56,014	$21,245	$28,850	$57,561	$119,264	$0
	16	SMITH, LAWRENCE JACK	DEM	I	$307,582	$194,130	$108,250	$139,677	$223,187	$0
	17	LEHMAN, WILLIAM	DEM	I	$123,375	$46,384	$68,900	$113,361	$163,868	$0
	18	PEPPER, CLAUDE	DEM	I	$180,278	$94,039	$84,392	$115,719	$117,340	$0
	19	FASCELL, DANTE B	DEM	I	$131,416	$98,236	$2,750	$71,713	$493,242	$0
		WHITE, WESLEY FORREST	DEM		$11,204	$3,175	$7,000	$8,831	$2,372	$0
GA	01	THOMAS, ROBERT LINDSAY	DEM	I	$90,933	$44,689	$169	$84,581	$91,932	$0
	02	HATCHER, CHARLES FLOYD	DEM	I	$78,188	$20,250	$0	$64,519	$43,455	$9,517
	03	RAY, RICHARD B	DEM	I	$74,218	$20,588	$39,400	$86,199	$153,640	$23,065
	04	SWINDALL, PATRICK L	REP	I	$245,894	$153,041	$78,979	$190,339	$203,525	$0
		HARSCH, HENRY	DEM		$2,804	$0	$0	$2,804	$0	$0
		MORAITAKIS, NICHOLAS C	DEM		$67,152	$65,900	$750	$44,858	$22,294	$0
	05	LEWIS, JOHN ROBERT	DEM	I	$72,155	$15,011	$53,540	$24,957	$47,555	$0
	06	GINGRICH, NEWTON LEROY	REP	I	$218,650	$147,410	$69,450	$228,764	$1,716	$13,237
		WORLEY, DAVID JAMES	DEM		$19,475	$16,295	$1,100	$17,808	$1,666	$1,050
	07	DARDEN, GEORGE (BUDDY)	DEM	I	$130,286	$52,660	$68,608	$64,688	$115,430	$0
	08	ROWLAND, JAMES ROY JR	DEM	I	$101,584	$43,705	$49,342	$42,447	$201,443	$0
	09	JENKINS, EDGAR L	DEM	I	$53,570	$4,855	$25,250	$72,105	$393,085	$0
	10	BARNARD, D DOUGLAS JR	DEM	I	$68,549	$3,720	$35,120	$33,673	$462,132	$0
GU	00	BLAZ, BEN	REP	I	$15,861	$2,100	$0	$14,313	$2,296	$12,000
HI	01	SAIKI, PATRICIA FUKUDA	REP	I	$197,432	$129,796	$67,200	$59,309	$145,632	$0
		BLAIR, RUSSELL II	DEM		$10,251	$251	$0	$12,620	$2,630	$0
	02	AKAKA, DANIEL KAHIKINA	DEM	I	$115,578	$61,388	$50,090	$41,867	$128,502	$0
IA	01	LEACH, JIM	REP	I	$43,368	$40,303	$0	$30,816	$43,996	$0
	02	TABOR, ERIC JON	DEM		$14,143	$4,027	$4,500	$8,108	$6,927	$0
		TAUKE, THOMAS JOSEPH	REP	I	$120,969	$78,047	$37,119	$66,551	$157,994	$0

State	Dist	Name	Party	Inc/ Chl	Net Receipts	Individual Contributions	Other Ctte's	Net Disbursement	Cash on Hand	Debts By
IA	03	NAGLE, DAVID R	DEM	I	$146,990	$20,728	$124,475	$84,253	$63,354	$15,236
	04	SMITH, NEAL	DEM	I	$59,068	$9,950	$40,900	$11,338	$190,748	$0
	05	LIGHTFOOT, JAMES ROSS	REP	I	$97,166	$64,106	$29,726	$62,852	$37,782	$0
	06	GRANDY, FREDERICK	REP	I	$134,001	$33,777	$94,842	$72,164	$65,187	$142,271
ID	01	CRAIG, LARRY E	REP	I	$105,914	$61,465	$41,810	$72,119	$48,625	$0
	02	STALLINGS, RICHARD	DEM	I	$101,143	$39,844	$52,937	$74,978	$24,888	$0
IL	01	HAYES, CHARLES A	DEM	I	$46,164	$14,960	$10,900	$68,484	$9,685	$6,572
	02	SAVAGE, GUS	DEM	I	$64,638	$23,870	$36,968	$66,811	$278	$46,768
		REYNOLDS, MEL	DEM		$27,196	$22,196	$0	$20,862	$6,333	$15,917
	03	RUSSO, MARTIN A	DEM	I	$229,871	$67,474	$142,100	$205,536	$26,441	$0
	04	DAVIS, JACK*	REP	I	$25,769	$3,350	$22,293	$7,245	$21,380	$44,932
		SANGMEISTER, GEORGE	DEM		$39,357	$23,757	$10,500	$5,125	$34,232	$18,840
	05	LIPINSKI, WILLIAM OLIVER	DEM	I	$55,741	$24,015	$30,864	$60,384	$13,582	$0
	06	HYDE, HENRY JOHN	REP	I	$107,537	$57,812	$41,776	$89,527	$151,507	$0
	07	COLLINS, CARDISS	DEM	I	$55,731	$1,930	$47,911	$24,179	$135,432	$25,000
	08	ROSTENKOWSKI, DAN	DEM	I	$475,012	$259,535	$198,298	$167,566	$904,149	$0
	09	YATES, SIDNEY R	DEM	I	$845	$795	$50	$7,853	$103,000	$0
	10	PORTER, JOHN EDWARD	REP	I	$61,778	$30,137	$26,200	$65,176	$93,388	$0
	11	ANNUNZIO, FRANK	DEM	I	$64,124	$16,870	$37,000	$43,159	$168,119	$0
		KIERNIK, ADAM W	REP		$5,053	$5,053	$0	$5,945	$14,745	$0
		ZENKICH, ELIAS R	REP		$32,500	$2,500	$0	$9,813	$22,686	$0
	12	CRANE, PHILIP MILLER	REP	I	$216,660	$207,938	$0	$131,562	$214,468	$0
		LEONARDI, JOHN A	DEM		$1,300	$1,000	$0	$151	$1,311	$0
	13	FAWELL, HARRIS W	REP	I	$67,713	$40,275	$25,680	$59,681	$43,262	$0
	14	HASTERT, J DENNIS	REP	I	$111,167	$46,753	$52,640	$105,540	$21,147	$0
	15	MADIGAN, EDWARD R	REP	I	$219,084	$71,378	$128,235	$90,444	$391,015	$0
		CURL, THOMAS J (TOM)	DEM		$3,568	$2,640	$350	$578	$2,990	$0
	16	MARTIN, LYNN MORLEY	REP	I	$182,129	$92,393	$53,793	$67,294	$231,446	$0
	17	EVANS, LANE ALLEN	DEM	I	$157,023	$81,554	$71,253	$162,910	$8,421	$14,958
	18	STEPHENS, G DOUGLAS	DEM		$33,693	$28,676	$0	$13,657	$20,035	$0
		MICHEL, ROBERT H	REP	I	$327,441	$117,277	$197,490	$176,858	$250,899	$0
		WEST, JUSTIN ZACHARY	DEM		$3,147	$571	$0	$3,059	$88	$0
	19	BRUCE, TERRY L	DEM	I	$103,788	$27,224	$63,425	$42,659	$157,149	$11,654
		FUQUA, CHARLES ROGER	REP		$1,850	$937	$0	$1,742	$108	$0
	20	DURBIN, RICHARD JOSEPH	DEM	I	$100,100	$30,860	$62,550	$40,210	$122,723	$3,600
	21	LUCAS, RONALD PAUL	DEM	O	$11,769	$11,769	$0	$6,408	$9,853	$0
		FIELDS, PETE	DEM	O	$83,720	$26,800	$55,000	$91,503	$75,697	$44,405
		COSTELLO, JERRY F	DEM	O	$258,236	$229,575	$19,725	$141,033	$272,397	$0
		MANSFIELD, ROBERT	DEM	O	$12,172	$9,112	$500	$6,209	$5,963	$2,560
		POSHARD, GLENDAL W	DEM	O	$13,011	$2,011	$11,000	$4,098	$8,912	$0
IN	01	VISCLOSKY, PETER J	DEM	I	$44,919	$13,655	$29,750	$25,613	$33,608	$0
	02	SHARP, PHILIP RILEY	DEM	I	$91,158	$24,134	$62,008	$38,174	$120,624	$0
	03	HILER, JOHN PATRICK	REP	I	$75,894	$46,641	$8,050	$71,843	$119,080	$0
	04	COATS, DANIEL R	REP	I	$95,343	$26,217	$61,600	$49,260	$193,526	$0
	05	JONTZ, JAMES	DEM	I	$209,898	$58,930	$147,025	$90,033	$120,627	$8,603
		WILLIAMS, PATRICIA LEE	REP		$8,391	$6,653	$0	$2,039	$6,352	$0
	06	BURTON, DANNY LEE	REP	I	$73,774	$39,635	$29,550	$69,242	$139,952	$0
	07	MYERS, JOHN T	REP	I	$12,138	$1,506	$3,550	$24,696	$112,862	$0
		FOWLER, GEORGE F	DEM		$254	$0	$0	$241	$13	$0

State	Dist	Name	Party	Inc/ Chl	Net Receipts	Individual Contributions	Other Ctte's	Net Disbursement	Cash on Hand	Debts By
IN	08	MCCLOSKEY, FRANK	DEM	I	$171,357	$46,837	$116,547	$108,158	$67,030	$0
	09	HAMILTON, LEE H	DEM	I	$129,891	$81,097	$39,950	$47,476	$97,766	$0
	10	JACOBS, ANDREW JR	DEM	I	$1,245	$100	$0	$1,332	$18,259	$0
KS	01	ROBERTS, PAT	REP	I	$71,367	$25,922	$32,800	$23,771	$267,467	$0
	02	SLATTERY, JAMES CHARLES	DEM	I	$133,616	$54,642	$75,647	$78,864	$80,640	$0
	03	MEYERS, JAN	REP	I	$52,614	$19,940	$31,000	$35,016	$51,512	$0
	04	GLICKMAN, DANIEL ROBERT	DEM	I	$211,666	$108,335	$97,545	$97,332	$124,724	$0
		THOMPSON, LEE	REP		$11,255	$18,543	$0	$2,697	$8,558	$0
	05	WHITTAKER, ROBERT R	REP	I	$62,589	$854	$46,720	$55,907	$347,951	$0
KY	01	HUBBARD, CARROLL JR	DEM	I	$190,870	$42,286	$124,925	$109,323	$333,246	$0
		SMITH, LACEY THOMAS	DEM		$209,394	$61,394	$0	$54,233	$155,160	$167,322
	03	MAZZOLI, ROMANO L	DEM	I	$20,315	$3,425	$5,250	$25,894	$18,101	$0
		HUTTER, JEFFREY VANCE	DEM		$22,339	$14,780	$4,000	$3,559	$18,780	$3,559
	04	BUNNING, JIM	REP	I	$159,901	$91,349	$62,148	$42,199	$120,639	$0
	05	ROGERS, HAROLD DALLAS	REP	I	$96,292	$52,299	$34,516	$57,828	$174,116	$0
	06	HOPKINS, LARRY JONES	REP	I	$70,930	$1,935	$35,700	$40,589	$578,187	$0
	07	PERKINS, CARL	DEM	I	$131,830	$67,909	$63,900	$78,352	$54,591	$3,729
LA	01	LIVINGSTON, ROBERT L	REP	I	$56,751	$2,600	$42,740	$22,995	$99,171	$0
	02	BOGGS, LINDY (MRS HALE)	DEM	I	$10,322	$1,615	$2,750	$45,553	$24,987	$0
	03	TAUZIN, WILBERT JOSEPH	DEM	I	$112,505	$12,750	$81,393	$215,839	$317,668	$0
	04	CAMPBELL, FOSTER	DEM	O	$13,544	$0	$0	$0	$0	$0
		CASH, ROCKY TED	DEM	O	$12,950	$0	$0	$12,950	$0	$0
		BAIN, TROY EVANS	DEM	O	$25,263	$6,163	$0	$18,951	$6,312	$19,100
		MCCRERY, JAMES OTIS III	REP	O	$19,637	$0	$0	$887	$18,750	$0
		TINER, STANLEY R	DEM	O	$15,715	$15,715	$0	$7,002	$8,712	$0
	05	HUCKABY, THOMAS JERALD	DEM	I	$59,801	$4,050	$42,600	$45,853	$236,508	$0
	06	BAKER, RICHARD HUGH	REP	I	$108,057	$56,699	$49,500	$92,280	$16,786	$8,499
	07	HAYES, JAMES ALISON	DEM	I	$127,817	$21,010	$98,550	$97,106	$34,698	$388,842
	08	HOLLOWAY, CLYDE C	REP	I	$87,560	$27,388	$57,827	$81,284	$10,432	$7,400
		WILLIAMS, FAYE	DEM	C	$31,718	$19,355	$9,178	$33,313	$1,879	$28,117
MA	01	CONTE, SILVIO O	REP	I	$20,171	$917	$2,000	$24,316	$264,181	$0
	02	BOLAND, EDWARD P	DEM	I	$55,356	$6,164	$14,450	$39,699	$39,815	$0
	03	EARLY, JOSEPH DANIEL	DEM	I	$138,811	$112,173	$23,550	$112,652	$101,600	$0
	04	FRANK, BARNEY	DEM	I	$147,007	$97,328	$46,685	$128,693	$55,792	$4,068
	05	ATKINS, CHESTER	DEM	I	$201,594	$200,209	$300	$196,532	$2,179	$9,037
	06	MAVROULES, NICHOLAS	DEM	I	$155,265	$112,085	$43,000	$75,893	$173,084	$14,140
		MCCARTHY, PAUL	REP		$5,932	$4,855	$0	$5,487	$444	$1,912
	07	MARKEY, EDWARD JOHN	DEM	I	$226,915	$214,025	$0	$35,128	$293,060	$0
	08	KENNEDY, JOSEPH P II	DEM	I	$671,711	$501,507	$50,455	$618,412	$88,780	$212,058
	09	MOAKLEY, JOHN JOSEPH	DEM	I	$134,455	$84,715	$39,280	$116,806	$196,290	$196,290
	10	STUDDS, GERRY EASTMAN	DEM	I	$46,803	$19,977	$25,500	$59,564	$22,065	$4,731
	11	DONNELLY, BRIAN J	DEM	I	$87,295	$39,320	$33,000	$30,298	$422,376	$0
MD	01	DYSON, ROY	DEM	I	$188,508	$59,190	$128,450	$141,517	$53,812	$7,089
	02	BENTLEY, HELEN DELICH	REP	I	$278,859	$173,817	$97,000	$183,061	$105,897	$8,405
		BARTENFELDER, JOSEPH	DEM		$16,143	$13,315	$2,575	$18,247	$895	$0
	03	CARDIN, BENJAMIN LOUIS	DEM	I	$157,392	$123,432	$31,990	$78,666	$109,457	$0
	04	MCMILLEN, C THOMAS	DEM	I	$237,863	$75,994	$149,256	$139,662	$99,481	$165,264
		ROXBOROUGH, CLAUDE W	REP		$5,540	$0	$0	$5,495	$44	$0
	05	HOYER, STENY HAMILTON	DEM	I	$171,008	$59,225	$90,915	$137,946	$270,970	$0

State	Dist	Name	Party	Inc/ Chl	Net Receipts	Individual Contributions	Other Ctte's	Net Disbursement	Cash on Hand	Debts By
MD	06	BYRON, BEVERLY B	DEM	I	$83,781	$27,387	$50,700	$78,399	$78,235	$0
	07	MFUME, KWEISI	DEM	I	$72,312	$32,835	$35,750	$78,730	$38,913	$0
	08	MORELLA, CONSTANCE A	REP	I	$213,558	$119,125	$84,960	$143,462	$73,687	$9,558
		FRANCHOT, PETER	DEM		$27,485	$25,985	$1,500	$11,575	$15,909	$0
ME	01	BRENNAN, JOSEPH EDWARD	DEM	I	$124,332	$42,360	$74,182	$47,534	$76,922	$0
	02	SNOWE, OLYMPIA J	REP	I	$52,660	$34,473	$11,350	$20,573	$35,878	$750
MI	01	CONYERS, JOHN JR	DEM	I	$48,762	$19,283	$28,366	$49,437	$7,616	$0
	02	JENSEN, PAUL S	REP		-$5	$0	$0	$5	$0	$0
		PURSELL, CARL D	REP	I	$261,713	$207,616	$39,535	$99,784	$317,361	$0
		POLLACK, LENA	DEM		$126,017	$116,083	$6,351	$24,415	$101,601	$0
	03	WOLPE, HOWARD E	DEM	I	$121,612	$47,682	$61,250	$72,751	$156,290	$0
	04	UPTON, FREDERICK STEPHEN	REP	I	$149,234	$82,358	$30,568	$94,629	$54,981	$38,789
	05	HENRY, PAUL B	REP	I	$153,803	$121,574	$24,850	$47,103	$146,282	$0
	06	CARR, BOB	DEM	I	$147,928	$60,376	$74,693	$84,204	$116,258	$0
	07	KILDEE, DALE E	DEM	I	$36,076	$4,692	$31,100	$25,433	$11,627	$0
	08	TRAXLER, BOB	DEM	I	$63,603	$24,683	$28,122	$46,803	$146,943	$0
	09	VANDER JAGT, GUY A	REP	I	$189,277	$103,524	$81,140	$195,350	$96,280	$0
	10	SCHUETTE, WILLIAM D	REP	I	$265,180	$143,390	$108,210	$141,482	$141,195	$57,083
	11	DAVIS, ROBERT W	REP	I	$189,150	$76,926	$96,851	$86,678	$308,462	$0
		GOULD, MARCIA RAE	DEM		$4,174	$2,102	$0	$3,976	$198	$0
		IRWIN, MITCH	DEM		$20,244	$20,194	$0	$1,330	$18,914	$0
	12	BONIOR, DAVID E	DEM	I	$151,997	$40,450	$106,945	$70,061	$130,301	$0
	13	CROCKETT, GEORGE WILLIAM	DEM	I	$12,563	$2,048	$8,300	$29,661	$33,262	$0
	14	HERTEL, DENNIS M	DEM	I	$83,774	$29,559	$49,395	$51,558	$80,779	$0
	15	FORD, WILLIAM D	DEM	I	$95,878	$27,421	$67,876	$72,064	$79,757	$0
	16	DINGELL, JOHN D	DEM	I	$162,455	$59,755	$94,035	$136,960	$126,171	$0
	17	LEVIN, SANDER	DEM	I	$106,631	$36,716	$63,900	$49,553	$159,893	$0
	18	BROOMFIELD, WILLIAM S	REP	I	$86,206	$50,119	$11,100	$21,262	$495,538	$0
MN	01	PENNY, TIMOTHY J	DFL	I	$111,603	$64,489	$38,070	$28,546	$187,113	$0
	02	WEBER, VIN	REP	I	$171,749	$104,124	$54,302	$139,145	$198,893	$0
	03	FRENZEL, BILL	REP	I	$140,071	$17,649	$39,493	$100,828	$352,183	$0
	04	VENTO, BRUCE F	DEM	I	$81,109	$22,112	$52,626	$35,648	$155,817	$0
	05	SABO, MARTIN OLAV	DEM	I	$147,808	$41,018	$96,422	$54,948	$187,029	$0
	06	SIKORSKI, GERRY	DFL	I	$178,544	$50,809	$123,228	$63,665	$131,299	$4,714
	07	STANGELAND, ARLAN I	REP	I	$161,299	$92,100	$63,650	$114,639	$96,038	$0
	08	OBERSTAR, JAMES L	DEM	I	$106,146	$19,878	$74,345	$47,343	$193,509	$0
MO	01	CLAY, WILLIAM LACEY	DEM	I	$64,446	$10,585	$52,850	$61,568	$61,609	$525
	02	BUECHNER, JOHN W JACK*	REP	I	$93,077	$46,190	$44,150	$44,507	$51,979	$15,586
		FEIGENBAUM, BOB	DEM		$43,665	$22,415	$1,000	$35,454	$8,211	$19,500
		BURNS, CLEMENT E JR	DEM		$12,201	$11,690	$500	$3,816	$8,384	$0
	03	TEMPORITI, JOHN J	DEM	O	$36,530	$30,950	$0	$22,834	$13,696	$5,338
	04	SKELTON, IKE	DEM	I	$84,811	$41,061	$43,550	$65,581	$206,245	$0
	05	WHEAT, ALAN	DEM	I	$88,459	$7,854	$68,072	$69,413	$152,779	$0
	06	COLEMAN, TOM	REP	I	$99,343	$43,418	$48,538	$47,694	$154,528	$0
		HUGHES, DOUG R	DEM		$18,668	$3,704	$12,800	$15,876	$2,791	$634
		JASPERS, KEITH A	DEM		$84,903	$9,992	$3,645	$80,531	$4,371	$34,841
	08	EMERSON, N WILLIAM	REP	I	$123,159	$63,776	$54,450	$64,062	$64,605	$283
		CRYTS, PHILLIP WAYNE	DEM		$58,574	$9,294	$45,875	$28,842	$31,899	$5,539

State	Dist	Name	Party	Inc/ Chl	Net Receipts	Individual Contributions	Other Ctte's	Net Disbursement	Cash on Hand	Debts By
MO	09	UTHLAUT, RALPH JR	REP		$13,597	$6,790	$1,750	$13,581	$16	$4,600
		VOLKMER, HAROLD LEE	DEM	I	$93,796	$34,567	$54,935	$45,720	$48,537	$0
MS	01	WHITTEN, JAMIE LLOYD	DEM	I	$102,001	$5,500	$81,500	$13,752	$319,058	$0
	02	ESPY, ALPHONSO MICHAEL	DEM	I	$178,282	$70,906	$107,199	$133,238	$54,418	$38,013
		COLEMAN, JACK	REP		$24,748	$4,804	$2,443	$20,494	$4,254	$17,500
	03	MONTGOMERY, GILLESPIE V	DEM	I	$7,533	$75	$2,000	$18,258	$88,270	$0
	04	DOWDY, C WAYNE	DEM	I	$199,098	$76,866	$114,032	$214,446	$158,382	$0
		PARKER, PAUL MICHAEL	DEM		$53,190	$3,135	$0	$52,548	$641	$50,000
		PATTERSON, STEVEN ALAN	DEM		$15,400	$4,800	$0	$14,098	$1,301	$15,500
		HENRY, MARK	REP		$6,025	$6,025	$0	$4,898	$1,126	$0
		STUBBS, W TERRELL	DEM		$14,682	$10,250	$300	$4,890	$4,890	$0
		PIGOTT, JOE BRADLEY	DEM		$19,466	$16,895	$2,536	$0	$13,483	$0
		DAVIS, PHILLIP RAMSAY	REP		$21,950	$16,100	$250	$1,596	$20,354	$0
	05	HALL, GEORGE ROBERT	REP	O	$24,934	$23,934	$0	$5,184	$19,749	$0
		TAYLOR, GARY EUGENE	DEM	O	$7,332	$0	$0	$4,900	$2,431	$5,000
		SMITH, LARKIN I	REP	O	$41,199	$13,199	$0	$25,537	$15,661	$40,000
		WHITE, GLENN LOUIS	DEM	O	$2,000	$0	$0	$54	$1,945	$0
MT	01	WILLIAMS, PAT	DEM	I	$44,281	$13,326	$28,725	$12,919	$106,225	$0
	02	MARLENEE, RON C	REP	I	$77,930	$42,759	$29,200	$54,513	$74,556	$0
NC	01	JONES, WALTER BEAMAN	DEM	I	$21,035	$635	$6,500	$20,194	$253,857	$0
		LAWRENCE, DANIEL WILLIAM	REP		$675	$0	$0	$647	$0	$0
	02	VALENTINE, ITIMOUS	DEM	I	$44,312	$13,376	$28,550	$48,853	$46,557	$0
	03	LANCASTER, HAROLD MARTIN	DEM	I	$76,315	$27,382	$48,299	$54,474	$23,543	$3,661
	04	PRICE, DAVID E	DEM	I	$210,431	$86,914	$119,750	$170,896	$48,742	$0
		FETZER, THOMAS HARRISON	REP		$119,376	$106,166	$2,750	$116,720	$2,655	$39,898
	05	NEAL, STEPHEN L	DEM	I	$227,552	$87,795	$119,750	$100,885	$170,318	$0
		GRAY, LYONS	REP		$64,990	$38,084	$2,837	$56,993	$12,432	$38,840
	06	COBLE, JOHN HOWARD	REP	I	$110,126	$50,957	$53,460	$95,309	$33,303	$2,000
	07	ROSE, CHARLES G III	DEM	I	$133,345	$48,165	$66,000	$67,504	$323,610	$50,000
	08	HEFNER, W G (BILL)	DEM	I	$133,989	$16,930	$78,125	$87,588	$303,400	$0
	09	MCMILLAN, J ALEX	REP	I	$189,571	$111,626	$71,600	$107,357	$97,981	$1,150
	10	BALLENGER, THOMAS CASS	REP	I	$87,454	$46,502	$39,375	$84,369	$8,532	$83,000
	11	CLARKE, JAMES MCCLURE	DEM	I	$113,116	$32,215	$75,750	$26,709	$86,972	$0
ND	00	DORGAN, BYRON L	DEM	I	$304,443	$81,349	$207,846	$213,403	$294,608	$0
		INGSTAD, JACK W	REP		$12,399	$5,649	$0	$8,684	$3,714	$1,507
NE	01	BEREUTER, DOUGLAS K	REP	I	$82,803	$58,007	$20,320	$31,120	$75,774	$0
	02	HOAGLAND, PETER	DEM	O	$51,072	$33,962	$1,550	$49,963	$1,109	$22,543
		SCHENKEN, JERRY	REP	O	$92,518	$42,318	$0	$68,350	$24,167	$50,000
		MILDER, ALICE R	REP	O	$52,793	$40,535	$12,258	$19,787	$33,006	$1,310
		ABBOUD, CHRIS	REP	O	$20,250	$18,130	$2,120	$10,564	$9,685	$0
		ZORINSKY, CECILE	DEM	O	$27,575	$26,575	$1,000	$11,812	$19,237	$0
	03	SMITH, VIRGINIA DODD	REP	I	$81,852	$708	$29,230	$77,999	$14,961	$16,700
NH	01	SMITH, ROBERT C	REP	I	$111,063	$97,096	$10,250	$58,109	$52,987	$59,300
		KEEFE, JOSEPH F	DEM		$36,928	$36,613	$0	$8,974	$27,954	$1,200
		WILLIAMS, E SCOTT	DEM		$18,644	$9,191	$52	$8,857	$9,787	$7,000
	02	GREGG, JUDD ALAN	REP	I	$51,733	$2,132	$20,210	$87,478	$146,564	$0
NJ	01	FLORIO, JAMES JOSEPH	DEM	I	$192,562	$71,455	$117,362	$83,317	$266,194	$0
	02	HUGHES, WILLIAM J	DEM	I	$37,688	$2,757	$29,050	$27,469	$99,532	$0
	03	HOWARD, JAMES J	DEM	I	$287,174	$137,967	$141,060	$107,948	$258,756	$0

State	Dist	Name	Party	Inc/ Chl	Net Receipts	Individual Contributions	Other Ctte's	Net Disbursement	Cash on Hand	Debts By
NJ	04	SMITH, CHRISTOPHER H	REP	I	$108,350	$57,759	$45,815	$70,822	$38,156	$0
	05	ROUKEMA, MARGE	REP	I	$79,619	$25,483	$49,675	$66,727	$102,218	$2,000
	06	DWYER, BERNARD J	DEM	I	$38,231	$3,730	$31,250	$24,431	$72,550	$0
	07	RINALDO, MATTHEW J	REP	I	$225,696	$111,996	$80,452	$81,823	$652,715	$0
	08	ROE, ROBERT	DEM	I	$223,684	$103,170	$103,975	$112,705	$372,318	$0
	09	TORRICELLI, ROBERT G	DEM	I	$201,402	$123,279	$60,100	$77,636	$380,122	$1,477
	10	RODINO, PETER W JR	DEM	I	$103,020	$21,183	$79,650	$67,299	$57,896	$0
	11	GALLO, DEAN A	REP	I	$155,374	$117,637	$32,795	$123,526	$105,293	$0
	12	COURTER, JAMES A	REP	I	$208,644	$156,841	$44,101	$147,439	$184,998	$0
	13	SAXTON, H JAMES	REP	I	$155,984	$84,222	$66,194	$61,128	$167,147	$0
	14	GUARINI, FRANK J	DEM	I	$110,087	$23,500	$83,400	$43,179	$153,535	$0
NM	01	REED, ALAN BARRY	DEM	O	$17,109	$8,755	$0	$17,318	$1,166	$1,187
		KRAMER, STEVEN P	DEM	O	$16,637	$7,680	$7,050	$8,109	$8,674	$3,354
	02	SKEEN, JOSEPH RICHARD	REP	I	$67,567	$24,680	$38,450	$25,582	$45,579	$2,750
	03	RICHARDSON, BILL	DEM	I	$160,877	$63,070	$92,287	$63,778	$127,655	$36,000
NV	01	BILBRAY, JAMES H	DEM	I	$236,522	$68,313	$108,700	$123,379	$116,465	$94,111
	02	VUCANOVICH, BARBARA F	REP	I	$107,643	$67,041	$40,000	$89,708	$26,093	$1,836
		ADAMS, BRENT THOMAS	DEM		$10,250	$10,250	$0	$10,250	$0	$0
NY	01	HOCHBRUECKNER, GEORGE J	DEM	I	$182,716	$47,098	$126,234	$86,477	$96,705	$10,000
	02	DOWNEY, THOMAS J	DEM	I	$150,811	$56,001	$71,068	$163,167	$230,970	$0
	03	MRAZEK, ROBERT J	DEM	I	$79,134	$34,828	$34,684	$85,775	$116,876	$0
	04	LENT, NORMAN FREDERICK	REP	I	$171,577	$36,533	$120,251	$71,952	$436,027	$0
	05	MCGRATH, RAYMOND J	REP	I	$144,999	$47,120	$86,924	$65,257	$241,759	$2,310
	06	FLAKE, FLOYD H	DEM	I	$208,255	$137,862	$68,397	$225,389	$23,169	$63,418
	07	ACKERMAN, GARY L	DEM	I	$114,076	$37,008	$76,070	$66,247	$161,903	$200
	08	SCHEUER, JAMES H	DEM	I	$6,785	$250	$6,500	$24,355	$4,956	$151,250
	09	MANTON, THOMAS JOSEPH	DEM	I	$139,180	$32,410	$56,745	$118,982	$27,123	$0
	10	SCHUMER, CHARLES E	DEM	I	$50,409	$1,820	$5,085	$35,916	$518,433	$0
	11	TOWNS, EDOLPHUS	DEM	I	$143,106	$76,995	$57,902	$98,837	$82,305	$0
	12	OWENS, MAJOR ROBERT	DEM	I	$69,990	$28,090	$7,060	$66,553	$4,275	$44,499
	13	SOLARZ, STEPHEN J	DEM	I	$267,758	$218,719	$1,500	$199,465	$880,998	$0
	14	MOLINARI, GUY V	REP	I	$33,076	$17,848	$4,456	$49,104	$121,305	$0
	15	LEVITT, JOHN	DEM		$7,735	$7,735	$0	$7,727	$8	$0
		GREEN, BILL	REP	I	$237,392	$186,234	$42;652	$89,126	$158,129	$237,000
	16	RANGEL, CHARLES B	DEM	I	$311,713	$147,177	$152,575	$220,885	$350,588	$0
	17	WEISS, TED	DEM	I	$74,648	$55,340	$18,025	$80,649	$40,951	$0
	18	GARCIA, ROBERT 'BOB'	DEM	I	$72,137	$49,975	$14,725	$203,851	$14,735	$10,672
	19	BIAGGI, MARIO	DEM	I	$106,529	$5,910	$18,450	$243,078	$179,535	$0
	20	DIOGUARDI, JOSEPH J	REP	I	$670,570	$506,207	$150,850	$211,296	$475,923	$0
		MEHIEL, DENNIS	DEM		$64,430	$0	$0	$40,780	$23,650	$61,990
		LOWEY, NITA M	DEM		$110,356	$84,025	$0	$2,960	$107,396	$0
	21	FISH, HAMILTON JR	REP	I	$91,705	$25,027	$61,700	$80,036	$99,914	$1,000
	22	GILMAN, BENJAMIN A	REP	I	$164,232	$95,337	$59,870	$109,681	$157,843	$0
	23	STRATTON, SAMUEL S	DEM	I	$61,437	$9,265	$43,100	$11,897	$167,256	$0
	24	SOLOMON, GERALD B	REP	I	$54,888	$36,778	$17,950	$29,265	$79,642	$0
	25	BOEHLERT, SHERWOOD L	REP	I	$77,562	$35,050	$9,023	$42,321	$104,058	$0
	26	MARTIN, DAVID O'B	REP	I	$48,100	$16,580	$28,316	$27,818	$76,011	$0
	27	POOLER, ROSEMARY S	DEM		$83,516	$45,929	$35,416	$44,589	$44,353	$18,000
		WORTLEY, GEORGE	REP	I	$135,541	$45,715	$54,596	$114,118	$33,883	$35,664

State	Dist	Name	Party	Inc/ Chl	Net Receipts	Individual Contributions	Other Ctte's	Net Disbursement	Cash on Hand	Debts By
NY	28	MCHUGH, MATTHEW F	DEM	I	$98,660	$48,479	$40,308	$76,062	$28,759	$0
	29	HORTON, FRANK	REP	I	$32,730	$6,640	$20,400	$27,861	$114,435	$0
	30	SLAUGHTER, LOUISE	DEM	I	$259,894	$119,655	$47,430	$162,317	$126,368	$14,875
	31	PAXON, L WILLIAM	REP	O	$70,952	$64,135	$2,800	$27,431	$55,668	$962
		NASIOTIS, GEORGE F	DEM	O	$59,547	$53,967	$1,000	$13,932	$45,615	$1,000
	32	LAFALCE, JOHN J	DEM	I	$86,059	$11,624	$59,522	$44,425	$383,887	$0
	33	NOWAK, HENRY J	DEM	I	$32,874	$2,410	$26,000	$37,277	$147,853	$0
	34	HOUGHTON, AMO	REP	I	$77,166	$33,590	$35,600	$18,088	$61,067	$96,106
OH	01	LUKEN, THOMAS A	DEM	I	$115,842	$26,294	$80,388	$33,635	$217,835	$0
	02	GRADISON, WILLIS D JR	REP	I	$17,683	$665	$0	$22,510	$287,087	$0
	03	HALL, TONY P	DEM	I	$53,614	$1,900	$38,600	$29,872	$263,212	$0
	04	OXLEY, MICHAEL G	REP	I	$102,859	$24,987	$62,300	$69,744	$209,138	$0
	06	MCEWEN, BOB	REP	I	$634,444	$559,415	$53,316	$664,211	$90,836	$0
		SHOEMAKER, THOMAS KENT	REP		$7,514	$5,225	$0	$7,506	$8	$0
		SNYDER, COOPER	REP		$6,192	$5,165	$0	$2,049	$4,143	$0
	07	DEWINE, RICHARD MICHAEL	REP	I	$110,724	$80,154	$27,250	$104,026	$58,536	$0
	08	LUKENS, DONALD EARL*	REP	I	$7,760	$2,010	$4,750	$5,877	$5,557	$0
	09	KAPTUR, MARCY	DEM	I	$59,877	$9,130	$48,800	$33,546	$28,470	-$5,000
	10	MILLER, CLARENCE E	REP	I	$8,526	$120	$2,350	$10,262	$69,929	$0
		WILHELM, DAVID C	DEM		$10,887	$8,309	$2,500	$4,034	$6,838	$0
	11	ECKART, DENNIS E	DEM	I	$99,684	$27,041	$67,610	$45,811	$147,929	$11,933
	12	KASICH, JOHN R	REP	I	$157,637	$116,336	$34,585	$78,222	$102,184	$0
	13	PEASE, DONALD J	DEM	I	$91,467	$36,532	$46,382	$38,627	$171,007	$0
	14	SAWYER, THOMAS C	DEM	I	$138,589	$24,265	$112,095	$137,091	$23,388	$10,521
	15	WYLIE, CHALMERS P	REP	I	$59,574	$6,990	$52,365	$23,376	$50,011	$0
	16	REGULA, RALPH	REP	I	$8,434	$1,515	$0	$14,329	$78,453	$0
	17	TRAFICANT, JAMES A JR	DEM	I	$18,092	$4,780	$10,000	$27,114	$42,551	$0
	18	APPLEGATE, E DOUGLAS	DEM	I	$50,659	$14,125	$28,549	$42,621	$104,223	$0
	19	FEIGHAN, EDWARD F	DEM	I	$111,398	$50,187	$58,895	$99,630	$44,883	$14,787
	20	OAKAR, MARY ROSE	DEM	I	$220,932	$31,631	$157,675	$186,482	$130,017	$25,500
	21	STOKES, LOUIS	DEM	I	$89,879	$26,516	$46,500	$71,219	$141,377	$0
OK	01	INHOFE, JAMES M	REP	I	$142,712	$55,878	$76,511	$105,793	$42,405	$27,828
	02	SYNAR, MICHAEL LYNN	DEM	I	$117,411	$113,480	$0	$87,375	$112,145	$0
	03	WATKINS, WESLEY WADE	DEM	I	$102,638	$70,967	$24,150	$55,723	$164,751	$0
	04	MCCURDY, DAVE	DEM	I	$60,172	$5,985	$48,782	$77,384	$58,509	$0
	05	EDWARDS, MICKEY	REP	I	$143,348	$99,977	$40,469	$169,752	$12,880	$0
	06	ENGLISH, GLENN LEE JR	DEM	I	$97,586	$41,402	$50,850	$18,191	$243,946	$0
OR	01	AUCOIN, LES	DEM	I	$224,183	$95,335	$66,490	$240,791	$9,891	$57,000
	02	SMITH, ROBERT F (BOB)	REP	I	$97,770	$53,493	$39,500	$39,951	$107,428	$0
		TUTTLE, LAURENCE ALLEN	DEM		$36,231	$29,345	$6,000	$26,348	$11,273	$22,817
	03	WYDEN, RONALD LEE	DEM	I	$170,681	$83,004	$80,838	$88,513	$210,953	$0
	04	DEFAZIO, PETER A	DEM	I	$88,338	$12,645	$70,150	$42,989	$53,292	$550
		HOWARD, JAMES MILO	REP		$1,157	$355	$0	$808	$348	$2,100
	05	SMITH, DENNIS A	REP	I	$156,745	$84,210	$63,196	$59,388	$229,321	$0
		DENNIS, JOHN D	DEM		$48,086	$35,557	$0	$15,498	$32,588	$1,200
PA	01	FOGLIETTA, THOMAS M	DEM	I	$110,058	$70,485	$38,250	$101,739	$44,649	$0
	02	GRAY, WILLIAM H III	DEM	I	$238,218	$45,752	$187,102	$309,395	$78,642	$3,062
	03	BORSKI, ROBERT A	DEM	I	$91,837	$28,665	$59,738	$33,495	$78,123	$740
	04	KOLTER, JOSEPH P	DEM	I	$60,955	$9,898	$49,675	$29,984	$94,785	$0

State	Dist	Name	Party	Inc/ Chl	Net Receipts	Individual Contributions	Other Ctte's	Net Disbursement	Cash on Hand	Debts By
PA	05	SCHULZE, RICHARD T	REP	I	$133,151	$54,639	$68,705	$97,152	$327,353	$0
	06	YATRON, GUS	DEM	I	$29,654	$8,165	$15,750	$22,182	$118,717	$0
	07	WELDON, CURT	REP	I	$147,852	$90,943	$50,015	$68,309	$133,730	$3,768
		LANDAU, DAVID EDWARD	DEM	C	$24,083	$1,935	$2,325	$23,947	$230	$194,047
	08	COYNE, JAMES K	REP	C	$4,531	$2,775	$0	$1,756	$2,775	$147,572
		KOSTMAYER, PETER H	DEM	I	$229,493	$144,207	$81,777	$146,792	$93,350	$30,297
		HOWARD, EDWARD L	REP		$53,635	$11,680	$950	$13,302	$40,333	$40,000
	09	SHUSTER, BUD	REP	I	$264,764	$207,305	$54,632	$103,084	$206,502	$0
	10	MCDADE, JOSEPH M	REP	I	$120,278	$14,770	$88,170	$48,597	$385,410	$0
	11	KANJORSKI, PAUL E	DEM	I	$200,500	$76,981	$116,460	$182,956	$90,014	$38,888
	12	MURTHA, JOHN P	DEM	I	$152,131	$44,027	$96,015	$169,395	$188,934	$0
	13	COUGHLIN, LAWRENCE	REP	I	$81,763	$39,750	$34,242	$32,395	$97,597	$0
	14	COYNE, WILLIAM J	DEM	I	$3,153	$350	$2,750	$27,490	$79,197	$0
	15	RITTER, DONALD L	REP	I	$188,745	$130,500	$53,750	$127,737	$96,509	$0
		REIBMAN, EDWARD D	DEM		$41,553	$36,085	$500	$20,652	$20,900	$4,793
	16	WALKER, ROBERT S	REP	I	$34,524	$12,235	$22,050	$22,700	$34,409	$0
	17	GEKAS, GEORGE W	REP	I	$41,264	$14,714	$8,000	$38,285	$111,150	$0
	18	WALGREN, DOUG	DEM	I	$133,957	$24,445	$103,906	$60,260	$125,493	$0
		ASH, HOWARD CHARLES	REP		$31,812	$101,607	$0	$27,445	$4,368	$0
	19	GOODLING, WILLIAM F	REP	I	$12,572	$12,220	$0	$12,245	$9,335	$0
	20	GAYDOS, JOSEPH M	DEM	I	$45,220	$3,650	$39,250	$36,895	$51,072	$0
	21	RIDGE, THOMAS JOSEPH	REP	I	$124,672	$35,797	$61,350	$71,517	$138,085	$0
	22	MURPHY, AUSTIN J	DEM	I	$32,166	$2,290	$24,800	$63,592	$71,939	$0
	23	CLINGER, WILLIAM F JR	REP	I	$129,577	$50,755	$75,226	$96,704	$38,185	$16,000
PR	00	FUSTER, JAIME B	DEM	C	$85,069	$35,681	$3,719	$6,677	$83,391	$1,830
		ROSSELLO, PEDRO J	UNK		$42,123	$42,066	$0	$43,323	-$1,200	$0
RI	01	ST GERMAIN, FERNAND J	DEM	I	$201,809	$47,225	$117,650	$249,703	$329,067	$0
		WOLF, J SCOTT	DEM		$40,373	$40,030	$100	$9,921	$38,452	$0
		MACHTLEY, RONALD KEITH	REP		$11,077	$10,271	$100	$2,237	$8,839	$0
	02	SCHNEIDER, CLAUDINE C	REP	I	$98,836	$28,985	$64,181	$69,349	$149,709	$1,737
		MORGENTHAU, RUTH S	DEM		$42,727	$30,195	$250	$12,344	$38,303	$12,282
SC	01	RAVENEL, ARTHUR JR	REP	I	$81,486	$37,501	$41,950	$11,443	$77,027	$0
	02	SPENCE, FLOYD DAVIDSON	REP	I	$29,895	$2,329	$27,280	$16,370	$23,437	$2,700
	03	DERRICK, BUTLER C JR	DEM	I	$122,973	$14,775	$95,900	$69,540	$281,425	$0
		JORDAN, HENRY SPEIR JR	REP		$74,827	$60,428	$2,778	$50,441	$24,385	$1,620
	04	ADAMS, THEODORE CAPERS	REP	C	$0	$0	$0	$308	$721	$0
		PATTERSON, ELIZABETH	DEM	I	$241,362	$21,095	$62,700	$266,083	$481	$146,500
	05	SPRATT, JOHN M JR	DEM	I	$55,818	$7,465	$41,898	$19,469	$154,437	$181,500
	06	TALLON, ROBERT M JR	DEM	I	$144,133	$54,580	$58,137	$43,420	$177,648	$3,339
		HAYES, DONALD RAY	REP		$8,108	$1,531	$2,019	$7,254	$853	$4,043
SD	00	JOHNSON, TIMOTHY PETER	DEM	I	$235,336	$91,016	$124,883	$89,935	$152,731	$0
TN	01	QUILLEN, JAMES HENRY	REP	I	$244,326	$45,281	$178,100	$73,694	$492,117	$0
	02	DUNCAN, JOHN J	REP	I	$190,168	$28,475	$144,050	$105,767	$602,236	$0
	03	THOMAS, WILLIAM NEIL III	REP	O	$6,250	$0	$0	$6,250	$0	$0
		WARD, WALT	DEM	O	$5,112	$2,800	$0	$5,072	$40	$1,000
		COKER, HAROLD L	REP	O	$79,579	$59,337	$5,000	$8,965	$70,709	$15,000
		BISSELL, KEITH	DEM	O	$44,157	$42,456	$1,700	$22,414	$97,865	$0
	04	COOPER, JAMES H S	DEM	I	$89,960	$10,609	$78,974	$13,362	$97,247	$207,696
	05	CLEMENT, ROBERT NELSON	DEM	I	$708,024	$347,422	$146,700	$672,818	$35,204	$140,000
		HOLCOMB, JAMES TERRY	REP	O	$254,424	$189,856	$33,600	$252,157	$10,368	$53,636
		ESKIND, JANE G	DEM	O	$1,433,499	$64,228	$0	$1,423,938	$9,556	$1,093,636

State	Dist	Name	Party	Inc/ Chl	Net Receipts	Individual Contributions	Other Ctte's	Net Disbursement	Cash on Hand	Debts By
TN	05	NORTH, JOANN	DEM	O	$53,226	$51,726	$1,500	$53,157	$69	$8,521
		BREDESEN, PHILIP NORMAN	DEM	O	$1,737,512	$8,384	$1,000	$1,709,867	$27,643	$1,835,292
	06	GORDON, BART	DEM	I	$221,028	$117,121	$90,870	$107,954	$261,652	$0
	07	SUNDQUIST, DONALD KENNET	REP	I	$156,618	$93,328	$53,674	$88,813	$257,666	$0
	09	FORD, HAROLD E	DEM	I	$138,049	$20,484	$97,250	$189,031	$17,076	$0
TX	01	CHAPMAN, JIM	DEM	I	$104,327	$90,205	$58,169	$90,812	$84,385	$40,718
	02	WILSON, CHARLES	DEM	I	$198,441	$57,139	$141,300	$157,581	$89,081	$0
	03	BARTLETT, STEVE	REP	I	$385,701	$66,561	$105,235	$311,534	$512,872	$19,545
	04	HALL, RALPH MOODY	DEM	I	$96,211	$13,130	$69,405	$90,726	$134,140	$0
	05	BRYANT, JOHN WILEY	DEM	I	$401,242	$130,745	$115,857	$168,973	$342,006	$150,000
		COHLMIA, KAY E	REP		$55,000	$0	$0	$21,977	$33,022	$55,000
	06	BARTON, JOE	REP	I	$335,866	$196,279	$126,825	$237,676	$101,343	$14,226
	07	ARCHER, WILLIAM R JR	REP	I	$18,209	$7,135	$0	$41,040	$517,641	$0
	08	FIELDS, JACK MILTON JR	REP	I	$192,183	$90,023	$99,350	$158,541	$75,697	$0
	09	BROOKS, JACK	DEM	I	$183,305	$28,375	$134,250	$52,140	$373,320	$0
	10	PICKLE, JAMES JARRELL	DEM	I	$146,887	$96,037	$34,450	$70,605	$214,217	$0
	11	LEATH, JAMES MARVIN	DEM	I	$76,917	$6,770	$43,300	$26,036	$448,816	$0
	12	WRIGHT, JAMES C JR	DEM	I	$346,170	$212,425	$114,350	$448,102	$146,381	$0
	13	BOULTER, ELDON BEAU	REP	I	$157,630	$104,953	$50,011	$138,099	$29,055	$5,341
		LEHMAN, EDWARD LEON	DEM		$48,466	$8,466	$1,000	$46,857	$1,608	$25,000
	14	SWEENEY, DAVID MCCANN	REP	I	$96,461	$12,070	$61,696	$85,747	$34,007	$125,555
		HERZIK, MICHAEL L	DEM		$38,180	$17,373	$2,500	$31,204	$6,975	$8,397
		POMEROY, JOHN PAUL JR	DEM		$111,796	$4,552	$500	$107,644	$4,152	$0
	15	DE LA GARZA, E (KIKA)	DEM	I	$219,476	$125,653	$90,902	$127,883	$219,326	$0
	16	COLEMAN, RONALD D	DEM	I	$160,689	$59,952	$74,220	$163,086	$8,727	$20,786
	17	STENHOLM, CHARLES W	DEM	I	$120,778	$63,741	$34,000	$176,847	$144,084	$0
	18	LELAND, GEORGE T	DEM	I	$114,269	$42,461	$71,500	$105,325	$29,350	$0
	19	COMBEST, LARRY	REP	I	$96,429	$51,688	$34,600	$59,980	$43,056	$9,442
	20	GONZALEZ, HENRY B	DEM	I	$12,115	$9,365	$2,750	$22,766	$677	$0
		PETERS, TERRY H	REP		$7,141	$2,340	$0	$7,071	$69	$2,975
		TREVINO, LORETO G (LEE)	REP		$9,123	$4,664	$1,000	$9,037	$86	$1,309
	21	SMITH, LAMAR	REP	I	$286,517	$226,138	$53,045	$245,016	$45,334	$27,786
	22	DELAY, THOMAS DALE	REP	I	$122,836	$67,524	$55,300	$128,060	$43,426	$0
		WALKER, WAYNE	DEM		$32,094	$11,950	$19,950	$12,477	$34,409	$0
		LEMMON, RAY ALLEN	DEM		$5,580	$4,080	$0	$3,743	$1,836	$1,500
		KONRAD, ARMIN RICHARD	DEM		$5,854	$5,343	$0	$3,406	$2,448	$0
	23	BUSTAMANTE, ALBERT G	DEM	I	$112,216	$62,520	$0	$66,301	$112,372	$11,732
	24	BURK, ROBERT WAYNE	REP		$640	$0	$0	$535	$1,297	$0
		FROST, MARTIN	DEM	I	$420,546	$211,707	$200,923	$163,243	$338,869	$0
	25	ANDREWS, MICHAEL ALLEN	DEM	I	$140,067	$24,162	$98,124	$73,526	$313,103	$0
	26	ARMEY, RICHARD K	REP	I	$262,066	$202,455	$59,450	$192,805	$83,526	$0
	27	ORTIZ, SOLOMON P	DEM	I	$134,692	$73,963	$53,099	$85,428	$143,841	$0
UT	01	HANSEN, JAMES V	REP	I	$46,446	$134,935	$16,300	$37,907	$32,100	$0
	02	OWENS, WAYNE	DEM	I	$227,743	$53,055	$172,800	$109,491	$142,210	$26,359
	03	NIELSON, HOWARD CURTIS	REP	I	$24,900	$1,500	$0	$4,728	$50,830	$0
VA	01	BATEMAN, HERBERT H	REP	I	$69,378	$20,675	$45,000	$65,919	$34,588	$7,723
	02	PICKETT, OWEN B	DEM	I	$100,668	$54,200	$43,950	$37,944	$67,848	$0
	03	BLILEY, THOMAS JEROME JR	REP	I	$162,336	$52,627	$84,795	$131,856	$38,487	$0
	04	SISISKY, NORMAN	DEM	I	$53,185	$5,386	$35,200	$28,462	$748,992	$349,183

State	Dist	Name	Party	Inc/ Chl	Net Receipts	Individual Contributions	Other Ctte's	Net Disbursement	Cash on Hand	Debts By
VA	05	ABEY, LINDA LUGENIA	REP	O	$23,980	$19,095	$3,589	$10,780	$13,200	$1,200
	06	OLIN, JAMES R	DEM	I	$73,782	$25,355	$44,375	$33,941	$52,047	$75,776
	07	SLAUGHTER, DANIEL FRENCH	REP	I	$72,097	$43,384	$24,871	$28,995	$90,946	$25,000
	08	PARRIS, STANFORD E	REP	I	$16,115	$10,336	$1,195	$31,052	$200,155	$0
		VERGARA, ALFONSO IGNACIO	IND		$3,691	$0	$0	$2,643	$1,047	$0
	09	BOUCHER, FREDERICK CARLY	DEM	I	$137,839	$18,254	$109,100	$61,130	$196,606	$0
	10	WOLF, FRANK R	REP	I	$154,368	$90,988	$57,963	$113,610	$53,067	$11,447
VI	00	DE LUGO, RON	DEM	I	$11,470	$3,395	$8,075	$7,654	$7,849	$0
VT	00	GUEST, JAMES A	DEM	O	$25,545	$25,545	$0	$19,759	$5,785	$0
		WELCH, PETER	DEM	O	$84,733	$65,458	$1,025	$21,576	$64,231	$2,402
		SMITH, PETER PLYMPTON	REP	O	$19,105	$19,105	$0	$6,206	$12,898	$18,000
		POIRIER, PAUL N	DEM	O	$5,447	$5,430	$0	$5,028	$402	$0
		JEFFORDS, JAMES MERRILL	REP	O	$269,434	$48,906	$186,624	$129,903	$246,713	$0
WA	01	MILLER, JOHN	REP	I	$142,801	$89,930	$46,663	$83,719	$61,882	$858
		LINDQUIST, REESE MALCOLM	DEM		$50,039	$27,433	$17,700	$36,274	$15,044	$0
	02	SWIFT, ALLAN BYRON	DEM	I	$150,609	$35,501	$110,812	$91,993	$115,144	$0
	03	BONKER, DONALD LEROY	DEM	I	$200,058	$87,613	$105,034	$90,888	$165,922	$0
		UNSOELD, JOLENE	DEM		$10,336	$8,340	$1,000	$996	$9,340	$996
	04	MORRISON, SIDNEY WALLACE	REP	I	$55,899	$37,845	$8,350	$45,460	$156,803	$0
		GOLOB, J RICHARD	DEM		$8,262	$2,850	$0	$8,130	$132	$5,078
	05	FOLEY, THOMAS S	DEM	I	$96,607	$18,765	$56,200	$55,317	$323,932	$0
	06	DICKS, NORMAN D	DEM	I	$130,847	$46,497	$69,687	$54,155	$275,424	$0
	07	RICE, NORMAN B	DEM	O	$1,450	$1,450	$0	$1,417	$32	$2,000
	08	CHANDLER, ROD	REP	I	$67,736	$9,505	$52,682	$15,492	$125,499	$0
WI	01	ASPIN, LES	DEM	I	$194,203	$37,650	$93,532	$80,447	$193,884	$0
	02	KASTENMEIER, ROBERT W	DEM	I	$118,332	$72,175	$42,804	$35,029	$115,537	$0
	03	GUNDERSON, STEVEN CRAIG	REP	I	$109,079	$65,601	$36,935	$64,782	$50,474	$0
	04	KLECZKA, GERALD D	DEM	I	$85,092	$30,248	$47,308	$44,231	$152,497	$0
	05	MOODY, JIM	DEM	I	$842,378	$216,001	$181,150	$171,235	$375,726	$70,000
		BENNETT, RICHARD THOMAS	REP		$450	$330	$0	$260	$89	$0
		DEE, CHARLES T JR	DEM		$16,925	$15,765	$20	$2,345	$14,579	$0
		BARNHILL, HELEN I	REP		$1,000	$1,000	$0	$0	$1,000	$0
		FLYNN, MATTHEW J	DEM		$107,602	$9,760	$0	$0	$10,760	$0
	06	PETRI, THOMAS E	REP	I	$92,228	$43,335	$32,930	$51,361	$258,029	$0
	07	OBEY, DAVID ROSS	DEM	I	$185,436	$75,219	$94,970	$92,773	$194,686	$0
		HERMENING, KEVIN J	REP		$57,811	$44,841	$1,500	$53,736	$11,222	$18,821
	08	ROTH, TOBY	REP	I	$120,743	$49,719	$66,030	$41,953	$170,137	$0
	09	SENSENBRENNER, F JAMES J	REP	I	$94,869	$67,347	$12,750	$76,141	$142,422	$0
WV	01	MOLLOHAN, ALAN	DEM	I	$31,603	$3,503	$27,600	$22,523	$39,364	$0
	02	STAGGERS, HARLEY O JR	DEM	I	$40,620	$3,570	$37,050	$22,436	$43,720	$5,000
	03	WISE, ROBERT E JR	DEM	I	$28,647	$1,801	$25,535	$39,565	$30,602	$0
	04	RAHALL, NICK J II	DEM	I	$106,286	$32,355	$44,350	$20,092	$300,312	$0
WY	00	CHENEY, RICHARD BRUCE	REP	I	$21,223	$7,275	$8,594	$20,864	$99,598	$0

FEC RELEASES INFORMATION ON 1987 PRESIDENTIAL SPENDING

WASHINGTON -- Eighteen presidential candidates raised $103.5 million and spent $91.6 million in 1987. Nearly $6 million of this amount was raised and spent by three candidates who have already withdrawn from the race.

The Federal Election Commission today released pre-election year summary figures for the 1988 presidential campaigns. The summary includes all campaigns which have been declared eligible to receive federal matching funds, as well as other campaigns which had significant financial activity in 1987.

In 1983, ten major party candidates had raised $30 million and spent $27 million. Of course, the fact that there is no incumbent running in 1988, is a factor which would impact on any attempt to compare finances for the 1988 presidential race and any prior presidential election cycles.

FEC figures on the following pages have been adjusted for contribution refunds, loan repayments and offsets to operating expenditures, affording the reader a more realistic look at monies raised and spent. A table is provided with comparable figures for the 1983-84 race.

State spending by each campaign is provided, along with maps to graphically depict the variations and/or spending patterns.

A new set of graphs has been included to show the receipts of each campaign, by source, for each reporting period in 1987.

RECEIPTS

Candidate	Individual Contributions	Party Contributions	Other Ctte Contributions	Candidate Contributions	Candidate Loans Minus Repay	Other Loans Minus Repay	Other Receipts	Campaign Total*	January Matching Funds
Republicans									
Bush	$18,071,176	$3,130	$523,119	$2,000	$0	$0	$145,179	$18,744,604	$6,374,982
+ Dole	$13,212,831	$0	$619,440	$0	$0	$0	$0	$14,088,104	$5,366,330
DuPont	$4,578,842	$0	$0	$5,000	$0	$713,000	$32,994	$5,329,836	$2,208,522
Haig	$1,240,329	$0	$13,070	$0	$50,000	$340,000	$119	$1,647,018	$439,385
++ Kemp	$7,044,661	$0	$53,666	$0	$0	$2,450,000	$1,894	$9,990,221	$3,893,846
Robertson	$14,158,659	$0	$0	$0	$0	$1,500,000	$449,538	$16,108,197	$6,455,898
Total	$58,306,498	$3,130	$1,209,295	$7,000	$50,000	$5,003,000	$629,724	$65,208,647	$24,938,963
Democrats									
Babbitt	$1,743,781	$1,276	$0	$48,000	$0	$629,000	$17,192	$2,439,249	$780,541
@ Dukakis	$10,157,184	$2,700	$11,380	$0	$0	$0	$75,955	$10,641,519	$4,365,108
# Gephardt	$3,962,243	$0	$340,768	$0	$0	$1,490,000	$8,962	$5,891,973	$1,974,230
Gore	$3,627,978	$1,490	$169,543	$0	$0	$0	$30,061	$3,853,072	$1,852,053
Hart	$2,203,780	$5,000	$0	$0	$0	$0	$38,033	$2,246,813	$937,325
Jackson	$1,939,220	$0	$50,175	$0	$0	$0	$582	$1,989,977	$598,021
LaRouche	$1,326,960	$0	$0	$0	$0	$0	$0	$1,326,960	
Simon	$3,619,343	$10,465	$152,202	$0	$45,000	$749,999	$5,539	$4,582,548	$1,876,017
Total	$28,580,489	$20,931	$724,068	$48,000	$45,000	$2,868,999	$176,324	$32,463,811	$12,383,295
Other									
Fulani*	$78,760	$0	$0	$0	$0	$0	$0	$78,760	$205,565
Inactive									
Laxalt	$1,146,927	$0	$34,750	$1,000	$0	$0	$4,441	$1,187,118	
Biden	$3,700,537	$0	$2,500	$0	$0	$0	$15,532	$3,718,569	
Schroeder	$858,423	$0	$9,700	$0	$0	$0	$1,675	$869,798	
Grand Total	$92,671,634	$24,061	$1,980,313	$56,000	$95,000	$7,871,999	$827,696	$103,526,703	$37,527,823

E X P E N D I T U R E S

Candidate	Operating Exp Minus Offsets	Fundraising Minus Offsets	Legal/Acoting Minus Offsets	Other Disbursements	Campaign Total	Expenditures Subj to Limit	Cash on Hand	Debts owed By
Republicans								
Bush	$7,883,161	$3,665,743	$1,347,805	$0	$12,896,709	$7,883,161	$5,704,342	$433,946
+ **Dole**	$9,482,711	$1,735,326	$606,643	$54,819	$11,879,499	$9,482,714	$2,208,682	$973,371
DuPont	$3,169,767	$1,978,598	$385,359	$5,000	$5,538,724	$3,169,767	($208,887)	$744,384
Haig	$1,459,670	$29,729	$14,878	$0	$1,504,277	$1,489,400	$135,939	$108,871
++ **Kemp**	$9,862,243	$0	$0	$0	$9,862,243	$9,862,241	$127,982	$3,514,251
Robertson	$12,385,678	$3,326,610	$240,059	$50,000	$16,002,347	$12,385,677	$105,850	$2,093,876
Total	$44,243,230	$10,736,006	$2,594,744	$109,819	$57,683,799	$44,272,960	$8,073,909	$7,868,599
Democrats								
Babbitt	$1,709,255	$444,798	$181,268	$0	$2,335,321	$1,724,491	$87,114	$163,000
@ **Dukakis**	$5,920,836	$2,263,509	$276,394	$52	$8,460,791	$5,920,835	$2,180,728	$625,224
‡ **Gephardt**	$3,524,089	$1,346,499	$239,545	$0	$5,110,133	$3,509,660	$781,841	$1,909,363
Gore	$2,326,635	$525,604	$105,110	$1,000	$2,958,349	$2,326,635	$894,723	$106,315
Hart	$1,137,643	$743,802	$228,861	$12,980	$2,123,206	$1,117,643	$123,524	$92,522
Jackson	$1,682,870	$252,395	$48,875	$159	$1,984,299	$1,682,872	$5,677	$452,185
LaRouche	$1,269,335	$15,804	$22,813	$0	$1,307,952	$1,269,338	$10,401	$176,473
Simon	$2,968,614	$1,071,663	$340,340	$0	$4,380,617	$3,005,574	$202,032	$1,187,257
Total	$20,539,277	$6,664,074	$1,443,206	$14,191	$20,660,748	$20,637,048	$4,206,040	$4,712,339
Other								
Fulani*	$59,993	$0	$0	$1,000	$60,993		$17,766	$0
Inactive								
Laxalt	$1,058,526	$0	$0	$0	$1,058,526	$1,058,526	$128,593	$6,606
Biden	$2,581,158	$821,313	$293,352	$0	$3,695,823		$22,044	$70,361
Schroeder	$481,174	$0	$0	$0	$481,174		$404,020	$0
Grand Total	$68,963,358	$18,221,393	$4,331,302	$125,010	$91,641,063	$65,968,534	$12,932,371	$12,658,005

1984 Presidential Campaigns through December 31, 1983

Receipts

Candidate	Individuals Minus Refunds	Party Minus Refunds	Other Cite Minus Refunds	Candidate Contributions	Candidate Loans Minus Repay	Other Loans Minus Repay	Other Receipts	Campaign Total	January Matching Funds
Republicans									
Reagan	$3,505,977	$0	$47,160	$0	$0	$0	$14,979	$3,560,116	
Democrats									
Askew	$1,553,871	$0	$0	$1,000	$0	$586,000	$7,714	$2,148,585	$863,574
Cranston	$2,614,148	$0	$307,585	$2,000	$45,300	$1,105,213	$0	$4,074,246	$1,484,271
Glenn	$5,426,602	$3,260	$304,049	$6,000	$22,637	$450,000	$10,505	$6,223,053	$2,341,081
Hart	$1,249,371	$0	$5,247	$3,750	$45,000	$522,346	$1,979	$1,827,693	$678,572
Hollings	$1,130,208	$0	$178,727	$0	$0	$250,000	$8,179	$1,567,114	$678,379
Jackson	$329,340	$0	$1,500	$0	$0	$0	$0	$330,840	
LaRouche	$137,774	$0	$0	$0	$0	$0	$0	$137,774	
McGovern	$217,559	$0	$0	$0	$30,000	$0	$1,350	$248,909	
Mondale	$9,399,552	$0	$22,295	$3,500	$0	$299,999	$20,258	$9,745,604	$4,340,343
Total Dem	$22,058,425	$3,260	$819,403	$16,250	$142,937	$3,213,558	$49,985	$26,303,818	$10,386,220
Grand Total	$25,564,402	$3,260	$866,563	$16,250	$142,937	$3,213,558	$64,964	$29,871,934	$10,386,220

Disbursements

	Operating Minus Offsets	Fundraising Minus Offsets	Legal/Acctng Minus Offsets	Other Disbursement	Campaign Total	Expend Subj to Limit	Cash on Hand	Debts owed By
Republicans								
Reagan	$752,510	$499,095	$239,226	$0	$1,490,831	$752,510	$2,077,285	$166,965
Democrats								
Askew	$1,748,477	$207,299	$85,786	$0	$2,041,562	$1,748,592	$107,025	$608,417
Cranston	$2,689,791	$1,105,678	$301,297	$4,478	$4,101,244	$2,689,790	$27,001	$840,164
Glenn	$3,241,693	$2,326,416	$532,633	$0	$6,100,742	$3,241,694	$99,674	$1,029,841
Hart	$1,420,705	$362,784	$46,436	$0	$1,829,925	$1,420,705	($2,231)	$1,046,514
Hollings	$1,391,300	$78,992	$33,709	$0	$1,504,001	$0	$62,611	$338,152
Jackson	$205,508	$9,670	$0	$2,422	$217,600	$183,085	$98,547	$0
LaRouche	$63,718	$5,238	$36,241	$0	$105,197	$63,718	$32,575	$4,470
McGovern	$103,621	$54,681	($130)	$204	$158,376	$103,621	$90,532	$44,857
Mondale	$5,470,632	$3,157,751	$787,253	$0	$9,415,636	$5,470,631	$345,581	$775,301
Total Dem	$16,335,445	$7,308,509	$1,823,225	$7,104	$25,474,283	$14,921,836	$861,315	$4,687,716
Total	$17,087,955	$7,807,604	$2,062,451	$7,104	$26,965,114	$15,674,346	$2,938,600	$4,854,681

FOOTNOTES FOR TABLES

Figures listed in the preceding tables are net calculations; that is, amounts have been subtracted for contribution refunds, loan repayments, and refunds or rebates received, (offsets).

Receipt categories will add up to campaign totals except for the following:

+ Dole ——— Total includes $250,000 from Dole for Senate Committee.

++ Kemp ——— Total includes $440,000 from Victory '88 (fka Kemp Superbowl Brur

@ Dukakis — Total includes $394,300 from Dukakis Gubernatorial Committee.

Gephardt - Total includes $90,000 from Gephardt in Congress Committee.

* Fulani —— Year End 1987 Report not yet received by FEC.

PRESIDENTIAL PRIMARY STATE-BY-STATE ALLOCATIONS -- REPUBLICAN CANDIDATES
(NOTE: LIMITS ARE 1988 OFFICIAL FIGURES)

STATE	BUSH	DOLE	DU PONT	HAIG	KEMP	ROBERTSON	LIMIT
ALABAMA	12,180	31,273	0	0	1,227	112,472	1,093,861
ALASKA	360	10,850	0	0	0	0	461,000
ARIZONA	1,344	10,803	0	0	388	64,240	909,829
ARKANSAS	34,682	18,656	0	0	132	17,651	642,081
CALIFORNIA	1,328	109,847	0	0	7,874	350,645	7,509,505
COLORADO	33,778	19,437	0	0	601	38,829	893,233
CONNECTICUT	6,868	19,732	27,343	0	50	5,368	905,035
DELAWARE	149	841	0	0	0	253	461,000
DISTRICT OF COLUMBIA	0	287	0	0	0	23,165	461,000
FLORIDA	239,751	74,728	0	2,197	2,945	345,280	3,436,847
GEORGIA	35,436	68,544	0	3,585	10,073	31,542	1,654,436
HAWAII	21,033	46,680	0	0	0	8,547	461,000
IDAHO	0	8,733	0	0	0	0	461,000
ILLINOIS	50,083	77,571	0	0	10,569	37,558	3,152,133
INDIANA	1,293	2,853	0	0	0	7,000	1,497,697
IOWA	453,071	490,343	284,358	35,758	311,575	316,022	775,217
KANSAS	0	130,738	0	0	0	1,436	673,060
KENTUCKY	12,287	19,213	0	0	63	31,592	1,007,192
LOUISIANA	23,771	9,881	0	0	999	286,913	1,159,876
MAINE	21,693	12,259	10,548	0	56	14,054	461,000
MARYLAND	2,238	11,517	0	0	374	16,372	1,257,608
MASSACHUSETTS	120,633	164,865	52,800	0	3,562	22,647	1,666,607
MICHIGAN	804,232	42,431	0	0	25,069	308,284	2,485,712
MINNESOTA	16,864	230,266	0	0	513	50,680	1,156,188
MISSISSIPPI	58,931	22,355	0	0	447	54,541	676,010
MISSOURI	39,859	63,547	0	0	3,628	22,750	1,399,227
MONTANA	0	149	0	0	0	5,500	461,000
NEBRASKA	2,160	60,051	0	0	2,530	414	461,000
NEVADA	0	321	0	0	575	2,701	461,000
NEW HAMPSHIRE	148,026	185,638	193,911	118,828	241,973	264,162	461,000
NEW JERSEY	25	20,283	7,507	0	738	11,200	2,154,160
NEW MEXICO	4,945	264	0	0	0	0	461,000
NEW YORK	41,045	82,105	58,619	0	30,596	24,544	4,965,523
NORTH CAROLINA	5,144	161,225	0	0	4,406	97,058	1,765,076
NORTH DAKOTA	461	1,035	0	0	35	0	461,000

PRESIDENTIAL PRIMARY STATE-BY-STATE ALLOCATIONS -- REPUBLICAN CANDIDATES
(NOTE: LIMITS ARE 1988 OFFICIAL FIGURES)

STATE	BUSH	DOLE	DU PONT	HAIG	KEMP	ROBERTSON	LIMIT
OHIO	89,455	19,466	0	0	615	0	2,930,853
OKLAHOMA	29,341	38,322	0	0	982	100,381	877,375
OREGON	228	2,173	0	0	0	335	751,614
PENNSYLVANIA	40,299	26,278	0	0	2,411	45,807	3,350,548
RHODE ISLAND	1,093	14,456	9,213	0	0	1,151	461,000
SOUTH CAROLINA	90,861	78,152	0	0	4,443	128,896	916,099
SOUTH DAKOTA	112,151	121,462	0	0	7,065	3,674	461,000
TENNESSEE	19,936	68,589	0	10,059	0	105,001	1,329,155
TEXAS	169,797	60,772	0	8,644	7,921	817,318	4,353,684
UTAH	0	47	0	0	1,149	0	461,000
VERMONT	27,066	41,003	3,009	0	0	6,251	461,000
VIRGINIA	974	16,975	0	0	464	141,035	1,638,947
WASHINGTON	18,773	108,752	0	0	1,244	8,309	1,242,487
WEST VIRGINIA	0	850	0	0	0	3,644	518,901
WISCONSIN	17,834	34,381	0	0	436	8,300	1,304,445
WYOMING	2,763	30,377	0	0	0	134	461,000
PUERTO RICO	7,009	14,544	0	0	0	0	747,557
TOTAL ALLOCATED	2,807,366	2,832,994	647,308	179,071	686,113	3,766,944	---
TOTAL NON-ALLOCATED	5,054,253	6,586,845	2,291,258	1,275,065	9,174,471	8,441,993	---

PRESIDENTIAL PRIMARY STATE-BY-STATE ALLOCATIONS -- DEMOCRATIC CANDIDATES
(NOTE: LIMITS ARE 1988 OFFICIAL FIGURES)

STATE	BABBITT	DUKAKIS	GEPHARDT	GORE	HART	JACKSON	LAROUCHE	SIMON	LIMIT
ALABAMA	0	32,437	1,015	19,235	0	0	0	5,000	1,093,861
ALASKA	0	0	0	0	0	0	0	0	461,000
ARIZONA	7,052	995	0	0	0	0	652	0	909,829
ARKANSAS	0	7,439	0	17,998	0	0	5,096	13,504	642,081
CALIFORNIA	0	59,692	0	815	6,730	23,550	27,317	14,202	7,509,505
COLORADO	0	46	0	0	0	0	3	399	893,233
CONNECTICUT	0	618	2,040	124	0	0	3,069	15,268	905,035
DELAWARE	0	680	0	0	0	0	0	0	461,000
DISTRICT OF COLUMBIA	35,404	21,396	0	0	0	0	8,450	0	461,000
FLORIDA	0	157,880	16,017	28,903	0	0	0	10,814	3,436,847
GEORGIA	0	25,369	36,339	13,277	0	0	3,991	7,000	1,654,436
HAWAII	0	432	176	0	0	0	0	0	461,000
IDAHO	0	265	0	100	0	0	290	0	461,000
ILLINOIS	23,888	67,441	6,715	7,455	640	124,788	18,512	109,404	3,152,133
INDIANA	0	7,372	0	410	0	0	9	0	1,697,697
IOWA	467,338	488,879	544,034	232,473	127,031	85,325	252,318	430,156	775,217
KANSAS	0	2,464	0	90	0	0	0	0	673,060
KENTUCKY	0	6,803	0	0	0	0	12	4,000	1,007,192
LOUISIANA	0	9,023	4,109	0	0	0	974	4,000	1,159,876
MAINE	0	32,093	4,371	5,810	0	0	2,738	5,655	461,000
MARYLAND	0	22,698	0	1,293	0	0	15,133	5,040	1,257,600
MASSACHUSETTS	0	34,303	2,098	416	0	0	48,394	32,698	1,666,607
MICHIGAN	0	14,003	0	450	0	0	3,804	5,201	2,485,712
MINNESOTA	0	158,811	26,942	768	0	0	1,341	61,400	1,156,188
MISSISSIPPI	0	3,590	960	12,509	0	0	0	4,000	676,010
MISSOURI	0	1,215	285,106	0	1,000	0	1,760	6,349	1,399,227
MONTANA	0	0	0	0	0	0	0	0	461,000
NEBRASKA	6,929	30,182	12,058	218	0	0	2,149	0	461,000
NEVADA	0	471	0	0	0	0	171	0	461,000
NEW HAMPSHIRE	149,975	168,667	167,256	237,147	54,913	10,085	325,764	203,322	461,000
NEW JERSEY	0	749	0	143	0	0	9,944	10,650	2,154,160
NEW MEXICO	0	13	0	0	0	0	0	0	461,000
NEW YORK	1,990	33,195	1,021	3,125	0	0	482	61,836	4,965,523
NORTH CAROLINA	0	120,509	11,670	22,246	0	0	190	4,000	1,765,076
NORTH DAKOTA	0	227	0	3	0	0	49	0	461,000
OHIO	0	5,678	0	100	0	0	299	4,068	3,930,853
OKLAHOMA	0	17,417	958	0	0	0	96	2,150	877,375
OREGON	0	1,639	0	0	0	0	2,652	0	751,614
PENNSYLVANIA	0	1,743	0	1,869	0	0	15,404	0	3,350,540
RHODE ISLAND	0	359	576	0	0	0	230	0	461,000
SOUTH CAROLINA	520	5,155	1,062	4,200	0	4,150	0	200	916,099
SOUTH DAKOTA	0	51,367	14,274	7,013	0	0	3,370	10,851	461,000
TENNESSEE	0	9,363	0	8,635	0	0	10	4,000	1,329,155
TEXAS	0	207,503	58,167	32,673	36,300	0	43,293	31,091	4,353,684
UTAH	0	0	0	0	0	0	0	300	461,000
VERMONT	0	3,087	3,798	0	0	0	2,200	2,262	461,000
VIRGINIA	0	21,122	0	3,202	0	0	109,210	13,510	1,638,947
WASHINGTON	0	10,693	0	1,152	0	0	6,506	2,879	1,242,487
WEST VIRGINIA	0	196	0	9	0	0	333	200	518,901
WISCONSIN	0	5,710	1,352	2,513	0	0	756	1,268	1,304,445
WYOMING	320	5,972	0	5,320	0	0	161	0	461,000
PUERTO RICO	0	0	0	0	0	0	0	0	747,557
TOTAL ALLOCATED	686,364	1,819,509	1,201,109	653,346	226,614	247,914	917,384	1,069,753	---
TOTAL NON-ALLOCATED	638,964	4,076,731	2,188,194	1,654,649	875,769	1,028,844	264,558	1,932,415	---

DEPARTMENT OF THE TREASURY

FEDERAL LAW ENFORCEMENT TRAINING CENTER

STATEMENTS OF:

JOHN SIMPSON, DEPUTY ASSISTANT SECRETARY

CHARLES F. RINKEVICH, DIRECTOR, FEDERAL LAW ENFORCEMENT TRAINING CENTER

ACCOMPANIED BY:

JILL E. KENT, ACTING ASSISTANT SECRETARY FOR MANAGEMENT

R.J. MILLER, DEPUTY DIRECTOR, FEDERAL LAW ENFORCEMENT TRAINING CENTER

WILLIAM M. KELSO, ASSISTANT DIRECTOR, OFFICE OF ADMINISTRATION

JOHN C. DOOHER, ASSISTANT DIRECTOR, WASHINGTON OFFICE

PREPARED STATEMENTS

Senator DECONCINI. Mr. Rinkevich, Director of the Federal Law Enforcement Training Center, I apologize to have to make you wait, but you can understand that Senator Domenici needed to get some questions answered. I understand that you will be accompanied by Mr. Miller, Mr. Kelso, and Mr. Dooher. Mr. Simpson and Ms. Kent will also be with us.

We welcome you here. You are operating a fine facility, and we look forward to your testimony.

Do you have a statement, Mr. Simpson?

Mr. SIMPSON. Yes, Senator. I would first like to ask your permission to have Mr. Keating's statement inserted in the record.

Senator DECONCINI. Without objection, it will appear.

[The statements follow:]

STATEMENT OF FRANCIS A. KEATING II, ASSISTANT SECRETARY, ENFORCEMENT

INTRODUCTION

MR. CHAIRMAN AND MEMBERS OF THIS COMMITTEE, IT IS A PLEASURE TO APPEAR BEFORE YOU TODAY TO URGE YOUR FAVORABLE ACTION IN SUPPORT OF THE ANNUAL APPROPRIATION FOR THE FEDERAL LAW ENFORCEMENT TRAINING CENTER FOR FISCAL YEAR 1989.

WITH ME TODAY ARE CHARLES F. RINKEVICH, DIRECTOR OF THE FEDERAL LAW ENFORCEMENT TRAINING CENTER, WHOM YOU KNOW, AND OTHER SENIOR CENTER STAFF MEMBERS WHO HE WILL INTRODUCE PERSONALLY LATER. ALSO WITH US TODAY IS JILL E. KENT, ACTING ASSISTANT SECRETARY OF THE TREASURY FOR MANAGEMENT.

FY 1988 ACCOMPLISHMENT

FY 1988 MARKS A MOST EXTRAORDINARY YEAR OF ACCOMPLISHMENT FOR THE FEDERAL LAW ENFORCEMENT TRAINING CENTER. FOR THE FIRST TIME IN ITS EIGHTEEN YEAR HISTORY AS A CONSOLIDATED LAW ENFORCEMENT TRAINING FACILITY, THE NUMBER OF FEDERAL AGENCY STUDENTS NOW IN NEED OF TRAINING IS EXCEEDING THE CENTER'S ESTABLISHED CAPACITY LEVELS FOR CLASSROOMS, OFFICES, HOUSING, AND DINING. THE GREATEST DEMAND FOR THIS TRAINING HAS BEEN AT THE BASIC OR ENTRY-LEVEL TO GOVERNMENT SERVICE AND THE CENTER HAS PLACED THE HIGHEST PRIORITY ON MEETING THIS CHALLENGE. IN FY 1988, NEARLY 28,000 STUDENTS ARE EXPECTED TO COMPLETE TRAINING AT THE CENTER'S GLYNCO, GEORGIA, SITE AND ITS SATELLITE FACILITY IN MARANA, ARIZONA. THIS WOULD REPRESENT AN INCREASE OF NEARLY 10,000 STUDENTS OVER THE FY 1987 LEVEL.

WHILE DIRECTOR RINKEVICH WILL ADDRESS THIS DEVELOPMENT IN MORE DETAIL IN HIS PRESENTATION, I WANT TO MENTION HOW PROUD WE

IN THE DEPARTMENT OF THE TREASURY ARE OF THE HIGH DEDICATION AND PROFESSIONALISM OF THE MEN AND WOMEN OF THE FEDERAL LAW ENFORCEMENT TRAINING CENTER. UNDER THE LEADERSHIP OF DIRECTOR RINKEVICH AND HIS STAFF, A NUMBER OF MEASURES HAVE BEEN TAKEN WHICH WE BELIEVE WILL RESULT IN THIS TRAINING WORKLOAD BEING ACCOMMODATED SUCCESSFULLY.

CENTER DEVELOPMENT

THE CENTER WAS ESTABLISHED IN 1970 BY A MEMORANDUM OF UNDERSTANDING AMONG A GROUP OF PARTICIPATING AGENCIES WHOSE PRINCIPAL GOAL WAS TO IMPROVE THE TRAINING FOR ALL FEDERAL LAW ENFORCEMENT OFFICERS THROUGHOUT THIS COUNTRY. THE NUMBER OF PARTICIPATING AGENCIES HAS INCREASED FROM A HANDFUL IN 1970 TO 63 AGENCIES TODAY FROM ALL THREE BRANCHES OF GOVERNMENT. THE CENTER IS THE ONLY FEDERAL ORGANIZATION WHOSE SOLE PURPOSE IS TO PROVIDE TRAINING BOTH TO CRIMINAL INVESTIGATOR AND POLICE OFFICER PERSONNEL ON AN INTERAGENCY BASIS.

THE DEPARTMENT OF THE TREASURY WAS IDENTIFIED AS THE LEAD AGENCY FOR ADMINISTERING THE CENTER'S OPERATIONS BECAUSE OF THE DEPARTMENT'S SUCCESSFUL EXPERIENCE, THROUGH THE FORMER TREASURY LAW ENFORCEMENT SCHOOL, IN MEETING IN A CENTRALIZED MANNER THE TRAINING NEEDS OF ITS FOUR ENFORCEMENT BUREAUS. THIS SCHOOL'S FORMAT BECAME THE NUCLEUS FOR THE CENTER'S CONCEPT OF CONSOLIDATED TRAINING. A BOARD OF DIRECTORS, REPRESENTING THE VARIED INTERESTS OF THE ENTIRE LAW ENFORCEMENT COMMUNITY, PROVIDES TRAINING PROGRAM AND POLICY DIRECTION.

SINCE 1975, THE CENTER HAS OCCUPIED ITS PERMANENT LOCATION AT GLYNCO, GA. THIS SITE IS OWNED BY THE FEDERAL GOVERNMENT AND CONSISTS OF OVER 100 BUILDINGS ON 1500 ACRES OF LAND. IN 1983, THE CENTER BEGAN OFFERING CERTAIN TRAINING PROGRAMS AT A LEASED

SITE IN MARANA, ARIZONA. INITIALLY, THE MARANA LOCATION WAS DESIGNATED TO HANDLE TRAINING FOR THE INTERIOR DEPARTMENT'S BUREAU OF INDIAN AFFAIRS AND NOW ACCOMMODATES A NUMBER OF SPECIALIZED PROGRAMS FOR AGENCIES SUCH AS U.S. CUSTOMS SERVICE, DEPARTMENT OF STATE'S DIPLOMATIC SECURITY, AND THE IMMIGRATION AND NATURALIZATION SERVICE.

CENTER MISSION

THE CENTER IS CHARGED WITH PROVIDING BASIC TRAINING, WHICH IS MANDATED TRAINING FOR LAW ENFORCEMENT PERSONNEL ENTERING THE FEDERAL SERVICE, AND ADVANCED TRAINING, WHICH HELPS VETERAN LAW ENFORCEMENT PERSONNEL TO ADAPT TO CHANGING MISSION REQUIREMENTS AND ADVANCES IN TECHNOLOGY. THE TRAINING THAT IS PROVIDED BY THE CENTER ENCOMPASSES THE PRACTICAL, EVERYDAY SKILLS AND KNOWLEDGE THAT PROFESSIONAL LAW ENFORCEMENT OFFICERS MUST HAVE TO EXECUTE THEIR STATUTORY RESPONSIBILITIES.

COST SAVINGS

FEDERAL AGENCIES COULD NOT CARRY OUT THEIR RESPECTIVE LAW ENFORCEMENT MISSIONS WITHOUT QUALITY TRAINING. HOWEVER, QUALITY TRAINING MUST BE COUPLED WITH SOUND FISCAL POLICY, ESPECIALLY IN PERIODS OF FISCAL AUSTERITY. IT IS WITH RESPECT TO THE ECONOMY OF ITS OPERATION THAT, IN PARTICULAR, THE CENTER HAS ATTAINED A HIGHLY RESPECTED REPUTATION AMONG GOVERNMENT AGENCIES. THREE FACTORS CONTINUE TO ACCOUNT FOR THIS: THE CONSOLIDATION OF 63 SEPARATE AGENCY TRAINING EFFORTS; THE CLOSURE OF SEVERAL LESS EFFICIENT AND DUPLICATIVE TRAINING FACILITIES PREVIOUSLY USED BY SOME AGENCIES; AND THE SAVINGS IN PER DIEM EXPENSES REALIZED FROM THE OPERATION OF CLOSELY ADMINISTERED RESIDENTIAL SITES AT GLYNCO AND MARANA. ANNUALLY, THE CENTER'S OPERATION REPRESENTS AN ESTIMATED $60 MILLION IN COST SAVINGS TO THE AMERICAN TAXPAYER.

PENDING APPROPRIATION

THE CENTER'S FY 1989 APPROPRIATION REQUEST IS FOR $26,525,000 AND 325 DIRECT FULL TIME EQUIVALENT POSITIONS. FAVORABLE ACTION OF THIS REQUEST WILL ENSURE THAT THE CENTER CONTINUES TO PROVIDE THE LEVEL OF HIGH QUALITY TRAINING NEEDED TO SUPPORT THE CRITICAL EFFORTS OF THIS NATION'S LAW ENFORCEMENT AGENCIES. SPECIFICALLY, THE REQUESTED FUNDING WILL PERMIT THE CENTER TO MEET CERTAIN TRAINING COSTS FOR ALL OF ITS PARTICIPATING AGENCIES AND TO MAINTAIN THE TREMENDOUS INVESTMENT THIS GOVERNMENT HAS IN OVER $100 MILLION IN FACILITIES AT GLYNCO.

CENTER ACHIEVEMENTS

I WOULD LIKE TO CALL TO THE COMMITTEE'S ATTENTION THAT THERE IS A GROWING LIST OF TANGIBLE EXAMPLES OF WHY THE FEDERAL LAW ENFORCEMENT TRAINING CENTER IS SO VERY IMPORTANT TO THE SUCCESS OF LAW ENFORCEMENT ACTIVITIES AROUND THE COUNTRY. IT IS UNDER THE AUSPICES OF THE CENTER THAT THE INSPECTOR GENERAL COMMUNITY IS RECEIVING TRAINING TO COMBAT SOPHISTICATED WHITE COLLAR CRIME. IT IS THE CENTER WHICH RESPONDED TO THE FEDERAL AVIATION ADMINISTRATION'S REQUIREMENTS FOR AN UPDATED AIR MARSHAL TRAINING PROGRAM AND NOW IS ADDRESSING A NUMBER OF ANTI-TERRORISM TRAINING INITIATIVES. IT IS THE CENTER WHICH UNDERTOOK THE DEVELOPMENT OF A NATIONAL CENTER FOR STATE AND LOCAL TRAINING, WHICH TODAY OFFERS OVER 25 SEPARATE PROGRAMS IN SUPPORT OF OUR LAW ENFORCEMENT COLLEAGUES AT THE STATE AND LOCAL AGENCY LEVEL. IT IS THE CENTER, TOO, WHICH IS ACTIVELY SUPPORTING THE DRUG ENFORCEMENT EFFORTS OF OPERATION ALLIANCE BY PROVIDING NEEDED TRAINING FOR JOINT FEDERAL, STATE, AND LOCAL UNDERTAKING.

THESE REPRESENT BUT A FEW OF THE BENEFITS BEING REALIZED FROM A CONSOLIDATED LAW ENFORCEMENT TRAINING CENTER. BUT I AM

CERTAIN THAT THEY INDICATE WHAT CAN BE ACCOMPLISHED BY THE ORGANIZATION. ALSO, LET ME UNDERSCORE THE POINT THAT THE CENTER'S RECORD OF SUCCESS MOST CERTAINLY IS RELATED TO THE EXCELLENT COOPERATION AND SUPPORT THAT IT HAS RECEIVED FROM EACH OF ITS PARTICIPATING AGENCIES.

CLOSING

MR. CHAIRMAN, THE TREASURY DEPARTMENT IS DEEPLY COMMITTED TO MAINTAINING THE FEDERAL LAW ENFORCEMENT TRAINING CENTER AS THE FOREMOST LAW ENFORCEMENT TRAINING ORGANIZATION IN THE WORLD. WITH THIS COMMITTEE'S APPROVAL OF THE REQUESTED FUNDING LEVEL FOR FY 1989, THE CENTER AGAIN WILL MEET ITS PRINCIPAL OBLIGATIONS RELATED TO BASIC TRAINING AND FACILITY OPERATIONS. AS IN THE PAST, THE CENTER ANTICIPATES THAT OTHER TRAINING REQUIREMENTS WILL BE ACCOMMODATED ON A REIMBURSABLE BASIS.

FINALLY, I THANK THE MEMBERS OF THIS COMMITTEE FOR THEIR CONTINUED, ACTIVE INTEREST AND SUPPORT OF THE CENTER'S MISSION. I WILL NOW ASK DIRECTOR RINKEVICH TO ADDRESS THE CENTER'S APPROPRIATION REQUEST IN GREATER DETAIL.

STATEMENT OF CHARLES F. RINKEVICH

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I AM PLEASED TO BE HERE TODAY TO REPORT ON THE OPERATIONS OF THE FEDERAL LAW ENFORCEMENT TRAINING CENTER AND TO SUPPORT OUR APPROPRIATION REQUEST FOR FISCAL YEAR 1989.

AT THIS TIME, I WOULD LIKE TO INTRODUCE THE REPRESENTATIVES OF THE CENTER WHO HAVE ACCOMPANIED ME: R. J. MILLER, DEPUTY DIRECTOR; WILLIAM M. KELSO, ASSISTANT DIRECTOR, OFFICE OF ADMINISTRATION; AND JOHN C. DOOHER, ASSISTANT DIRECTOR FOR OUR WASHINGTON OFFICE.

AS YOU KNOW, THE CENTER'S MISSION IS TO PROVIDE BASIC AND ADVANCED TRAINING FOR THE MAJORITY OF THE FEDERAL GOVERNMENT'S LAW ENFORCEMENT PERSONNEL. WE ALSO PROVIDE TRAINING FOR STATE AND LOCAL LAW ENFORCEMENT PERSONNEL IN SPECIALIZED AREAS AND SUPPORT THE TRAINING PROVIDED BY OUR PARTICIPATING AGENCIES THAT IS SPECIFIC TO THEIR NEEDS.

OVER THE YEARS, THE CENTER HAS SUCCESSFULLY DEMONSTRATED THAT THE CONCEPT OF CONSOLIDATED TRAINING FOR FEDERAL LAW ENFORCEMENT PERSONNEL CAN AND DOES WORK. FOR THE PAST EIGHTEEN YEARS, WITH THE SUPPORT OF THIS SUBCOMMITTEE, THE CENTER HAS PROVIDED QUALITY, COST EFFICIENT TRAINING TO 130,012 FEDERAL, STATE, AND LOCAL PERSONNEL. CONSOLIDATED TRAINING PROVIDES THE OPPORTUNITY FOR RESOURCE SHARING AMONG THE AGENCIES AND GIVES STUDENTS THE CHANCE TO LEARN ABOUT THE MISSION OF OTHER GOVERNMENT AGENCIES. THE STUDENTS ALSO HAVE THE OPPORTUNITY TO MEET PERSONNEL FROM OTHER AGENCIES WITH WHOM THEY WILL BE DEALING IN THE FIELD.

THE OPERATION OF A CONSOLIDATED, RESIDENTIAL TRAINING CENTER ALSO HAS PROVEN TO BE VERY COST EFFECTIVE. FOR EXAMPLE, ONE OF OUR GREATEST SAVINGS IS IN THE COST OF HOUSING AND FEEDING STUDENTS. THE CURRENT PER DIEM RATE IN WASHINGTON AND OTHER MAJOR CITIES IS $117, WHILE THE CENTER IS ABLE TO HOUSE AND FEED STUDENTS FOR $21 PER DAY. USING THE PROJECTED FY 89 WORKLOAD, WE ANTICIPATE THE GOVERNMENT WILL AVOID $57.5 MILLION IN PER DIEM COSTS ALONE WHEN COMPARING THE USE OF GLYNCO WITH TRAINING SITES IN MAJOR CITIES.

DURING FISCAL YEAR 1988, THE CENTER WILL BE FACING ITS MOST CHALLENGING YEAR TO DATE. THE PROJECTIONS PROVIDED BY OUR PARTICIPATING AGENCIES INDICATE THAT WE WILL BE EXPECTED TO TRAIN 27,811 STUDENTS. THIS IS A 55% INCREASE IN STUDENTS AND 77% INCREASE IN STUDENT WEEKS OVER THE ACTUAL TRAINING CONDUCTED IN

FISCAL YEAR 1987. I WILL TOUCH ON OUR PLANS TO MEET THESE DEMANDS LATER IN MY COMMENTS, BUT I WOULD LIKE TO SAY AT THIS TIME THAT I AM EXTREMELY PLEASED WITH THE INGENUITY AND DETERMINATION OF THE CENTER STAFF AS WELL AS THE STAFF OF OUR AGENCIES IN DEVELOPING STRATEGIES TO ACCOMMODATE THE ADDITIONAL WORKLOAD.

PARTICIPATING ORGANIZATIONS

PERSONNEL FROM 63 PARTICIPATING ORGANIZATIONS ATTEND TRAINING AT THE CENTER. THIS NUMBER INCREASED IN FISCAL YEAR 1987 WHEN THE FLETC BOARD OF DIRECTORS GRANTED PARTICIPATING ORGANIZATION STATUS TO THE DEPARTMENT OF COMMERCE, OFFICE OF EXPORT ENFORCEMENT; THE RAILROAD RETIREMENT BOARD, OFFICE OF THE INSPECTOR GENERAL; AND THE DEFENSE PROTECTIVE SERVICE, WHICH IS A NEWLY CREATED CIVILIAN SECURITY FORCE OF THE DEPARTMENT OF DEFENSE CHARGED WITH THE PROTECTION OF THE PENTAGON. I SHOULD MENTION THAT TWELVE YEARS AGO, WHEN THE CENTER FIRST MOVED TO GLYNCO, WE HAD 26 PARTICIPATING ORGANIZATIONS.

IN ADDITION TO THESE 63 PARTICIPATING ORGANIZATIONS, THE CENTER RECEIVES REQUESTS FOR TRAINING FROM OTHER FEDERAL AGENCIES; AND ALTHOUGH WE CANNOT ALWAYS ACCOMMODATE EACH OF THESE REQUESTS ON DEMAND, WE GENERALLY HAVE BEEN ABLE TO PROVIDE SUCH TRAINING ON A REIMBURSABLE, SPACE AVAILABLE BASIS. THE VERY FACT THAT MORE AGENCIES HAVE REQUESTED OUR TRAINING IS TESTIMONY TO THE FLETC'S REPUTATION AS A "CENTER OF EXCELLENCE" FOR LAW ENFORCEMENT TRAINING.

WORKLOAD

DURING FISCAL YEAR 1987, WE TRAINED NEARLY 18,000 STUDENTS. THIS TOTAL INCLUDED 14,355 STUDENTS WHO WERE TRAINED AT GLYNCO IN BASIC, ADVANCED, AND STATE AND LOCAL PROGRAMS; 2,192 STUDENTS TRAINED AT OUR SATELLITE FACILITY AT MARANA, ARIZONA; AND 1,340 STUDENTS TRAINED IN PROGRAMS CONDUCTED AT VARIOUS LOCATIONS THROUGHOUT THE UNITED STATES.

AS PREVIOUSLY MENTIONED, THE PROJECTED 55% INCREASE IN OUR FISCAL YEAR 1988 WORKLOAD IS NOT ONLY DRAMATIC, BUT IT HAS PRESENTED AN ENORMOUS CHALLENGE FOR US. THESE NUMBERS CONVERT TO AN AVERAGE RESIDENT STUDENT POPULATION OF 2,250 AND A PEAK AVERAGE RESIDENT STUDENT POPULATION OF 2,323. I WOULD LIKE TO SHARE WITH YOU SOME OF THE PLANS WE HAVE DEVELOPED TO ACCOMMODATE THIS UNPRECEDENTED AMOUNT OF TRAINING.

SINCE THE INCREASED POPULATION WILL AFFECT ALL AREAS OF OUR OPERATION INCLUDING HOUSING AND DINING FACILITIES, CLASSROOMS, OFFICE SPACE, STAFF, AND SUPPORT FUNCTIONS, OUR PLAN ADDRESSES EACH OF THESE COMPONENTS.

PRESENTLY, OUR ON-CENTER HOUSING WILL ACCOMMODATE 1433 STUDENTS. OF THIS TOTAL, ABOUT 300 BEDS ARE LOCATED IN TOWNHOUSES AND PROVIDE INADEQUATE ACCOMMODATIONS. HOWEVER, WE HAVE BEEN FORCED TO USE THEM BECAUSE OF THE LARGE STUDENT POPULATION. EVEN WITH THE INADEQUATE ACCOMMODATIONS, THIS IS ALMOST 400 ROOMS SHORT OF WHAT WE ACTUALLY WILL NEED DURING THE COMING MONTHS. TO ADDRESS THIS SHORTFALL, THE CENTER HAS CONTRACTED WITH TWO MOTELS IN THE LOCAL COMMUNITY TO PROVIDE ADDITIONAL HOUSING DURING PEAK TRAINING PERIODS. APPROPRIATE TRANSPORTATION HAS BEEN ARRANGED TO ALLOW THOSE STUDENTS HOUSED OFF-CENTER REASONABLE ACCESS TO GLYNCO'S DINING AND OTHER SUPPORT FACILITIES.

GLYNCO'S DINING HALL HAS A SEATING CAPACITY OF 1,800 AND A COOKING CAPACITY WHICH IS EVEN GREATER. OUR SEATING CAPACITY IS SUFFICIENT FOR THE MORNING AND EVENING MEALS BECAUSE DINING HOURS CAN BE EXTENDED WITHOUT DISRUPTING TRAINING; BUT BECAUSE OF OUR TRAINING SCHEDULE, WE EXPERIENCE OUR BIGGEST SPACE CRUNCH DURING THE NOON MEAL. THEREFORE, WE HAVE QUICKLY RENOVATED A NEARBY BUILDING TO PROVIDE ADDITIONAL MEAL SERVICES FOR THE NOON MEAL. THE MEALS WILL BE COOKED IN THE MAIN DINING HALL AND WILL BE DELIVERED TO THE TEMPORARY DINING FACILITY, WHICH HAS SEATING FOR 400 ADDITIONAL STUDENTS.

TO MEET THE EXTRA DEMAND FOR CLASSROOMS AND OFFICES, THE CENTER HAS OBTAINED 25 PORTABLE BUILDINGS WHICH HAVE BEEN PLACED ADJACENT TO PERMANENT STRUCTURES THROUGHOUT THE CENTER. THESE TEMPORARY BUILDINGS HAVE STATE-OF-THE-ART EQUIPMENT AND FURNISHINGS TO ENSURE THE MAINTENANCE OF QUALITY TRAINING. FOURTEEN OF THESE PORTABLE BUILDINGS ARE FOR CLASSROOMS AND NINE ARE FOR OFFICES TO ACCOMMODATE TEMPORARY INCREASES IN FACULTY, AND TWO ARE FOR TRAINING SUPPORT PURPOSES.

SINCE THIS INCREASED WORKLOAD OBVIOUSLY REQUIRES ADDITIONAL STAFFING, THE CENTER HAS REACHED AGREEMENTS WITH AGENCIES EXPERIENCING THE GREATEST INCREASE IN STUDENTS TO PROVIDE ABOUT 30 ADDITIONAL INSTRUCTORS ON A TEMPORARY BASIS. THIS ASSISTANCE, COUPLED WITH RECENT INCREASES IN CENTER STAFF, WILL PROVIDE US WITH A SUFFICIENTLY LARGE FACULTY TO HANDLE THE INCREASE.

WE HOPE THAT THE STEPS WHICH WE HAVE TAKEN TO MEET THE TRAINING REQUESTS ARE TEMPORARY AT BEST AND WILL REMAIN ONLY FOR THE SHORT TERM. HOWEVER, IF THE TREND OF STEADILY INCREASING WORKLOAD CONTINUES AS IT HAS OVER RECENT YEARS, THERE WILL BE A NEED FOR A MORE PERMANENT EXPANSION OF GLYNCO.

ONE PERMANENT EXPANSION IS ALREADY UNDERWAY WITH THE CONSTRUCTION OF A 228 BED DORMITORY. MR. CHAIRMAN, YOU WILL RECALL THAT CONGRESS APPROPRIATED $6 MILLION FOR THIS PROJECT AND CONSTRUCTION BEGAN IN JULY 1987. THE ANTICIPATED COMPLETION DATE IS STILL JANUARY 1989. PURSUANT TO CONGRESS' DIRECTION AND RECOGNIZING THE SIGNIFICANT CONTRIBUTIONS TO THE FEDERAL LAW ENFORCEMENT TRAINING CENTER MADE BY THE CLERK OF OUR HOUSE SUBCOMMITTEE, THIS NEW DORMITORY WILL BE NAMED THE AUBREY A. "TEX" GUNNELS DORMITORY COMPLEX.

LONG RANGE PLAN

IN REGARD TO OUR FACILITY NEEDS, I AM PLEASED TO REPORT ON OUR PROGRESS IN THE DEVELOPMENT OF A NEW FACILITIES MASTER PLAN AS PART OF THE CENTER'S OVERALL LONG RANGE PLAN.

THE CENTER'S LAST FORMALLY DEVELOPED FACILITIES PLAN WAS PREPARED IN 1976. OVER THE YEARS, THAT PLAN HAS BEEN AMENDED AND MODIFIED IN RESPONSE TO THE CENTER'S RAPIDLY GROWING TRAINING WORKLOAD. THE INCREASE IN THE NUMBER OF PARTICIPATING ORGANIZATIONS AND THE INFLUX OF STUDENTS OVER THE YEARS HAVE BROUGHT ABOUT THE NEED FOR MANY UNANTICIPATED CHANGES TO THE PHYSICAL CONFIGURATION OF THE CENTER. A VIABLE PLAN IS ESSENTIAL TO PROVIDE MANAGEMENT WITH INFORMATION TO ESTABLISH PRIORITIES, ALLOCATE RESOURCES, AND ENSURE THAT FACILITIES ARE AVAILABLE TO SUPPORT GLYNCO'S MISSION.

IN ITS FISCAL YEAR 1988 CONTINUING RESOLUTION, THE CENTER RECEIVED AUTHORIZATION TO SPEND UP TO $200 THOUSAND FOR THE DEVELOPMENT OF A NEW FACILITIES PLAN. I HAVE APPOINTED A STEERING GROUP CONSISTING OF CENTER AND PARTICIPATING ORGANIZATION MANAGERS TO PROVIDE POLICY GUIDANCE TO A CONTRACT CONSULTANT THAT WE WILL SELECT TO DEVELOP THIS FACILITIES PLAN. A COMPETITIVE SELECTION OF THE CONSULTING FIRM WILL BE MADE IN

THE NEAR FUTURE AND THIS COMMITTEE WILL BE KEPT APPRISED OF DEVELOPMENTS. THE CONSULTANT'S REPORT WILL PROVIDE AN ANALYSIS OF PROJECTED FUTURE WORKLOAD AND A PLAN FOR FACILITY ENHANCEMENTS NECESSARY TO HANDLE THAT WORKLOAD.

IN ORDER TO BE BETTER PREPARED TO HANDLE OUR MISSION IN THE NEXT FIVE YEARS OR MORE, WE ARE ALSO IN THE PROCESS OF REVISING OUR OVERALL LONG RANGE PLAN WHICH WILL ESTABLISH BENCHMARKS FOR FUTURE CENTER OPERATIONS. SOME OF THE BROAD MANAGEMENT GOALS WHICH HAVE BEEN IDENTIFIED FOR THIS PLAN DEAL WITH QUALITY OF TRAINING, MANAGEMENT, AND FACILITIES; USE OF TECHNOLOGY; APPROPRIATE FULFILLMENT OF OUR RESPONSIBILITIES TO SERVE AS STEWARDS FOR THE TRAINING OF THE MAJORITY OF FEDERAL LAW ENFORCEMENT PERSONNEL; AND THE PROVISION OF TRAINING RELATED TECHNICAL ASSISTANCE.

MARANA OPERATIONS

IN RESPONSE TO A 1984 REQUEST FROM THE DEPARTMENT OF THE INTERIOR'S BUREAU OF INDIAN AFFAIRS (BIA) THAT THE CENTER MANAGE THE INDIAN POLICE ACADEMY, THE CENTER OPENED A SATELLITE FACILITY AT MARANA, ARIZONA, APPROXIMATELY 25 MILES NORTH OF TUCSON. BECAUSE MARANA WAS A CONTRACTOR OPERATED FACILITY ALREADY BEING UTILIZED FOR FIRE SUPPRESSION TRAINING BY OTHER FEDERAL AGENCIES, THE CENTER WAS ABLE TO PROVIDE COST-EFFECTIVE LAW ENFORCEMENT TRAINING FACILITIES FOR THE BIA.

IN JANUARY 1985, THE CENTER CONDUCTED THE FIRST 10-WEEK BASIC INDIAN TRAINING PROGRAM AND SINCE THAT TIME, WE HAVE CONDUCTED BIA AND OTHER AGENCY ADVANCED TRAINING. THE ADVANCED TRAINING CONDUCTED AT MARANA IS ESSENTIALLY FOR THOSE STUDENTS WHO ARE POSTED IN THE WESTERN REGIONS OF THE UNITED STATES, BUT WE HAVE ALSO USED MARANA TO HANDLE SOME OF THE OVERFLOW TRAINING

THAT CANNOT BE ACCOMMODATED AT GLYNCO. DURING FISCAL YEAR 1987, A TOTAL OF 2,192 STUDENTS GRADUATED FROM THE MARANA FACILITY, INCLUDING 489 STUDENTS FROM THE INDIAN POLICE ACADEMY'S BASIC AND ADVANCED PROGRAMS AND 1,703 STUDENTS FROM OTHER ADVANCED PROGRAMS.

MARANA IN NO WAY DUPLICATES THE SPECIAL TRAINING FEATURES AVAILABLE AT GLYNCO, BUT IT DOES SERVE AS AN ADEQUATE SATELLITE FACILITY TO SUPPORT GLYNCO.

WORKLOAD STATISTICS

MR. CHAIRMAN, I CALL YOUR ATTENTION TO PAGE 11 OF MY STATEMENT CONTAINING THE FEDERAL LAW ENFORCEMENT TRAINING CENTER'S WORKLOAD STATISTICS FOR FISCAL YEAR 1987, ALONG WITH PROJECTIONS FOR FISCAL YEARS 1988 AND 1989. I WILL NOT REVIEW THIS CHART IN DETAIL, BUT WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE CONCERNING THESE STATISTICS.

FY 1989 BUDGET REQUEST

NOW, IF I MAY, I WOULD LIKE TO TURN YOUR ATTENTION TO THE CENTER'S FISCAL YEAR 1989 BUDGET REQUEST. OUR APPROPRIATION REQUEST FOR FISCAL YEAR 1989 IS $26,525,000 AND WE CONTEMPLATE $13,465,000 IN REIMBURSABLE FUNDING FOR A TOTAL FISCAL YEAR 1989 BUDGET OF $39,990,000. THIS AMOUNT WILL PROVIDE TRAINING FOR A TOTAL OF 23,374 STUDENTS--11,350 IN BASIC PROGRAMS, 9,559 IN ADVANCED PROGRAMS, AND 2,465 IN STATE AND LOCAL PROGRAMS.

FEDERAL LAW ENFORCEMENT TRAINING CENTER
FUNDING AND WORKLOAD DATA
(DOLLARS IN THOUSANDS)

	1987		1988		1989	
FUNDING:						
APPROPRIATION/ PRESIDENT'S BUDGET	$29,666		$28,672		$26,525	
REIMBURSABLE	12,626		14,000		13,465	
TOTAL	$42,292		$42,672		$39,990	
WORKLOAD:	STUDENTS	STUDENT WEEKS	STUDENTS	STUDENT WEEKS 1/	STUDENTS	STUDENT WEEKS 1/
BASIC	7,362	48,467	12,547	89,565	11,350	73,425
CENTER ADVANCED	1,564	3,050	2,977	5,977	2,953	5,628
AGENCY ADVANCED	6,489	11,420	9,822	18,152	6,606	11,225
STATE AND LOCAL	2,472	3,066	2,465	3,301	2,465	3,301
TOTAL	17,887	66,003	27,811	116,995	23,374	93,579
FUNDED AVERAGE RESIDENT STUDENT POPULATION (ARSP) 2/	905		1,323		881	
REIMBURSABLE ARSP	364		927		919	
TOTAL	1,269		2,250		1,800	
FULL TIME EQUIVALENT POSITIONS	325		325		325	

1/ THE FY 1988 AND FY 1989 WORKLOAD IS BASED ON AGENCY PROJECTIONS AS OF JULY 1987.

2/ THE FUNDED ARSP IS BASED ON POLICY OF FUNDING DIRECT TRAINING COSTS ONLY.

THE CENTER RECEIVES REIMBURSABLES FROM THE AGENCIES TO COVER THE COSTS OF FOOD AND LODGING FOR BASIC STUDENTS; FOR ALL COSTS ASSOCIATED WITH ADVANCED TRAINING INCLUDING COURSE COSTS, FOOD, AND LODGING; FOR STATE AND LOCAL TRAINING PROGRAMS; AND TO COVER COSTS OF SUPPORT PROVIDED TO THE ON-SITE PARTICIPATING ORGANIZATIONS.

PRIOR TO FISCAL YEAR 1987, THE CENTER'S FUNDING POLICY HAD BEEN THAT THE CENTER PAID FOR THE TOTAL BASIC TRAINING COSTS

INCLUDING STUDENT TRAVEL, MEALS, LODGING, AND COURSE COSTS. AN EXCEPTION TO THAT WAS IN FISCAL YEAR 1986, WHEN STUDENT TRAVEL WAS NOT FUNDED BY THE CENTER, EXCEPT FOR THE U.S. CAPITOL POLICE.

BEGINNING IN FISCAL YEAR 1987, UNDER A NEW FUNDING POLICY, THE CENTER WILL FUND ONLY THE DIRECT COSTS OF TRAINING. DIRECT TRAINING COSTS INCLUDE SUCH ITEMS AS INSTRUCTOR'S SALARY AND BENEFITS, SUPPORT PERSONNEL, UTILITIES, PRINTING, ROLE PLAYERS, AMMUNITION, AND MATERIALS AND SUPPLIES. BY CONGRESSIONAL INSTRUCTION, IN FISCAL YEARS 1987 AND 1988, THE CENTER FUNDED DIRECT COST, FOOD AND LODGING FOR THE U.S. CAPITOL POLICE. THE PARTICIPATING ORGANIZATIONS ASSUME RESPONSIBILITY FOR THEIR RESPECTIVE STUDENT COSTS OF TRAVEL, MEALS, AND LODGING.

MINOR CONSTRUCTION AND MAINTENANCE

THE FEDERAL LAW ENFORCEMENT TRAINING CENTER IS LOCATED ON 1,500 ACRES WITH AN ESTIMATED REPLACEMENT VALUE IN EXCESS OF $100 MILLION. OVER THE PAST THIRTEEN YEARS, MOST OF OUR 100 PLUS BUILDINGS, WHICH WERE LEFT TO US BY THE FORMER NAVAL AIR STATION, HAVE BEEN MODIFIED TO ACCOMMODATE TRAINING AND SUPPORT ACTIVITIES. HOWEVER, THE DYNAMIC TRAINING REQUIREMENTS OF FEDERAL LAW ENFORCEMENT NECESSITATE NOT ONLY CONTINUAL MAINTENANCE AND REPAIR, BUT REGULAR MODIFICATIONS TO ACCOMMODATE UNANTICIPATED NEEDS. THE CENTER RELIES ON THE MINOR CONSTRUCTION AND MAINTENANCE ACCOUNT FOR THESE PURPOSES.

IN THE BUDGET REQUEST BEFORE YOU TODAY, WE ARE SEEKING AN APPROPRIATION OF $3 MILLION IN NO-YEAR FUNDING TO ENSURE THAT WE CAN PERFORM THE NEEDED REPAIRS AND MAINTENANCE AS WELL AS REACT TO THE EVER CHANGING TRAINING NEEDS OF OUR AGENCIES.

I WILL NOW ADDRESS SOME RECENT ACCOMPLISHMENTS OF THE CENTER WHICH SERVE AS A BASIS FOR THIS BUDGET REQUEST.

NATIONAL CENTER FOR STATE AND LOCAL TRAINING

THE NATIONAL CENTER FOR STATE AND LOCAL TRAINING WAS ESTABLISHED BY THE PRESIDENT IN 1982 TO PROVIDE ADDITIONAL SUPPORT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES. SINCE ITS INCEPTION OVER FIVE YEARS AGO, THE NATIONAL CENTER HAS RECEIVED BROAD SUPPORT FROM THE FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT COMMUNITIES WHICH PROVIDE SUBJECT MATTER EXPERTS FOR INSTRUCTIONAL ASSISTANCE AND PROGRAM DEVELOPMENT. THERE ARE ALMOST 30 SELECTED ADVANCED TRAINING PROGRAMS AVAILABLE TO THESE AGENCIES.

DURING FISCAL YEAR 1987, SEVERAL NEW PROGRAMS WERE DEVELOPED, INCLUDING THE SCHOOL ADMINISTRATORS FOR EFFECTIVE POLICE, PROSECUTOR, AND PROBATION OPERATIONS LEADING TO IMPROVED CHILDREN AND YOUTH SERVICES TRAINING PROGRAM; THE HAZARDOUS WASTE INVESTIGATIONS TRAINING PROGRAM; ARMED CRIMINAL INVESTIGATIONS TRAINING PROGRAM; AND THE ARSON FOR PROFIT FOR STATE PROSECUTORS TRAINING PROGRAM.

THE NATIONAL CENTER HAS ACHIEVED GREAT SUCCESS IN A RELATIVELY SHORT TIME FRAME. OFTEN THE NUMBER OF REQUESTS FROM STATE AND LOCAL LAW ENFORCEMENT AGENCIES EXCEEDS THE SPACE CAPACITIES AT GLYNCO. IN ORDER TO ENSURE THAT THE STATE AND LOCAL TRAINING WORKLOAD DOES NOT REDUCE THE AVAILABILITY OF CENTER FACILITIES AND RESOURCES FOR FEDERAL TRAINING, IT HAS BEEN THE PRACTICE TO CONDUCT STATE AND LOCAL PROGRAMS AT OTHER SITES AROUND THE COUNTRY.

DURING FISCAL YEAR 1987, 2,472 STATE AND LOCAL STUDENTS WERE TRAINED THROUGH THE NATIONAL CENTER. THIS BUDGET REQUEST IN THE AMOUNT OF $875 THOUSAND WILL PROVIDE PROGRAM DEVELOPMENT AND ADMINISTRATIVE SUPPORT TO PERMIT US TO TRAIN 2,465 STUDENTS-- 1,463 AT GLYNCO AND 1,002 AT VARIOUS OTHER SITES.

MR. CHAIRMAN, YOU WILL BE INTERESTED TO KNOW THAT OUR NATIONAL CENTER HAS BEEN WORKING WITH THE DRUG POLICY BOARD'S OPERATION ALLIANCE BY PROVIDING TRAINING SUPPORT ADDRESSING MAJOR ELEMENTS OF DRUG INTERDICTION EFFORTS ALONG THE SOUTHWEST BORDER. AS PART OF THIS EFFORT, WE HAVE PREPARED AN OVERVIEW VIDEO TAPE THAT EXPLAINS THE HISTORY, PURPOSE, AND FUNCTION OF OPERATION ALLIANCE. SEVERAL OTHER INITIATIVES UNDER DEVELOPMENT ARE: A VIDEO TRAINING PROGRAM WHICH DEALS WITH CROSS DESIGNATION OF JURISDICTIONAL AUTHORITY BETWEEN FEDERAL, STATE, AND LOCAL AGENCIES ALONG THE SOUTHWEST BORDER; A VIDEO PROGRAM ON THE SHARING OF SEIZED ASSETS; AND THE TRAINING OF SELECTED OPERATION ALLIANCE AGENTS TO OPERATE VIDEO CAMERAS IN ORDER TO RECORD REAL INCIDENTS DEMONSTRATING THE LATEST TECHNOLOGY AND TECHNIQUES OF SUCCESSFUL INTERDICTION OF ILLEGAL DRUGS, INCLUDING METHODS OF CONTRABAND CONCEALMENT ALONG THE SOUTHWEST BORDER.

ADP MODERNIZATION

MR. CHAIRMAN, I AM PARTICULARLY PLEASED TO REPORT THAT THE CENTER CONTINUES TO MOVE AHEAD WITH ITS ADP MODERNIZATION EFFORTS. CENTER-WIDE WORD PROCESSING NEEDS CONTINUE TO BE MET WITH THE USE OF THE IBM 5520 SYSTEM. ADDITIONALLY, COMPUTER TERMINALS USED BY MANAGERS AND PROGRAM STAFF HAVE BEEN EQUIPPED WITH EMULATION CAPABILITIES TO PERMIT RAPID TRANSFER OF INFORMATION BETWEEN THESE INDIVIDUALS AND THEIR CLERICAL STAFF. THIS SYSTEM SIGNIFICANTLY REDUCES THE AMOUNT OF TIME DEVOTED TO RETYPING AND REFORMATTING REPORTS.

SEVERAL OTHER IMPORTANT COMPONENTS OF THE CENTER'S ADP MODERNIZATION EFFORT ARE OUR NEW COMPUTERIZED FINANCIAL MANAGEMENT SYSTEM, WHICH TRACKS ALL OF THE CENTER'S FINANCIAL OBLIGATIONS AS WELL AS THE REIMBURSABLES RECEIVED FROM OTHER AGENCIES, AND OUR NEW STUDENT TESTING SYSTEM. THE TESTING SYSTEM CONSISTS OF FOUR MODULES, A TEST QUESTION EDITOR, AN EXAM

GENERATOR, A MODULE TO INTERFACE AN OPTICAL SCANNER TO AUTOMATICALLY SCORE EXAMS, AND A MODULE TO TRACK TEST RESULTS FOR THE PURPOSE OF LONGITUDINAL ANALYSIS OF THE QUALITY OF OUR TEST QUESTIONS.

HOWEVER, TO DATE, THE MOST SIGNIFICANT ACCOMPLISHMENT AT GLYNCO IN ADP TECHNOLOGY IS THE INSTALLATION OF OUR TRAINING MANAGEMENT SYSTEM. FOLLOWING AN EXTENSIVE ANALYSIS BY OUR STAFF, THE TREASURY DEPARTMENT'S OFFICE OF ELECTRONIC SYSTEMS AND INFORMATION TECHNOLOGY, AND SEVERAL PAID AND UNPAID CONSULTANTS, THE CENTER HAS DEVELOPED AN AUTOMATED SYSTEM FOR ITS CLASS, PROGRAM, AND STAFF SCHEDULING FUNCTIONS WHICH ARE AT THE CORE OF TRAINING MANAGEMENT AND DELIVERY.

THE PURPOSE OF THIS SYSTEM, WHICH CONSISTS OF SEVEN MODULES, IS TO AUTOMATE ALL SCHEDULING FUNCTIONS INCLUDING STUDENT HOUSING, CLASSROOM FACILITIES, AND INSTRUCTOR ASSIGNMENTS IN ORDER TO MAXIMIZE THE UTILIZATION OF THESE RESOURCES, AVOID CONFLICTING ASSIGNMENTS, AND UTILIZE THE BEST QUALIFIED INSTRUCTORS AVAILABLE FOR EACH BLOCK OF INSTRUCTION. IN ADDITION, THE SYSTEM WILL CREATE AND MAINTAIN STUDENT TRANSCRIPTS AND GENERATE MANAGEMENT INFORMATION DATA AND REPORTS.

THE MODULES HAVE BEEN INSTALLED AT THE CENTER AND STAFF HAS BEEN TRAINED IN THEIR OPERATION. THE COMPUTERIZED SYSTEM WILL RUN PARALLEL TO OUR MANUAL SYSTEM FOR A TEST PERIOD TO ENSURE PROPER FUNCTIONING. WE ANTICIPATE THAT THE NEW SYSTEM WILL BE COMPLETELY FUNCTIONAL BY THE END OF THIS FISCAL YEAR.

FINANCIAL CRIMES INVESTIGATIVE INSTITUTE

AS YOU ARE WELL AWARE, FINANCIAL CRIMES ARE A SOPHISTICATED, GROWING, AND RAPIDLY CHANGING INTERNATIONAL

PHENOMENON WHICH THE LAW ENFORCEMENT COMMUNITY MUST ADDRESS. OVER THE LAST SEVERAL YEARS, THE CONCEPT OF A FINANCIAL CRIMES INVESTIGATIVE INSTITUTE (FCII) HAS BEEN EVOLVING WITHIN THE CENTER'S EXISTING COMPUTER AND ECONOMIC CRIME DIVISION. LAW ENFORCEMENT AGENCIES HAVE COME TO REALIZE THAT WHAT IS NEEDED IS NOT ONLY TRAINING IN TRADITIONAL FINANCIAL INVESTIGATIVE TECHNIQUES, BUT ALSO TRAINING IN THE AREA OF COMPUTER FRAUD, MONEY LAUNDERING, AND THE USE OF MICROCOMPUTERS AS INVESTIGATIVE TOOLS.

IN ADDITION TO OFFERING INNOVATIVE TRAINING PROGRAMS, OUR PLAN FOR THE FCII INCLUDES MAINTENANCE OF AN ELECTRONIC DATA CENTER AND CENTRAL STORAGE POINT FOR TRAINING SOFTWARE WITH AN ELECTRONIC BULLETIN BOARD TO ENABLE AN EXCHANGE OF TRAINING SOURCES AND PROGRAMS AMONG AGENCIES. ADDITIONALLY, THE FCII WOULD BE A CENTER FOR COMPUTER BASED TRAINING DEVELOPMENT AND PROGRAM DISTRIBUTION. IT WOULD BE A SOURCE OF NETWORKING AND CONFERENCES ON FINANCIAL CRIMES INVESTIGATIVE TECHNIQUES TO STRENGTHEN AGENCY RESPONSES TO THESE TYPES OF CRIMES AS WELL AS FACILITATE NEW TRAINING PROGRAM DEVELOPMENT.

ANTI-TERRORISM TRAINING

REALIZING THE GROWING NUMBER OF TERRORIST INCIDENTS THROUGHOUT THE WORLD AND THE NEED TO HAVE TRAINED LAW ENFORCEMENT PERSONNEL WHO WILL HAVE RESPONSIBILITY FOR RESPONDING TO AND PREVENTING TERRORIST ACTS, THE CENTER HAS ALREADY DEVELOPED SEVERAL ANTI-TERRORIST TRAINING PROGRAMS AND IS IN THE PROCESS OF DEVELOPING SEVERAL MORE.

REVISIONS HAVE BEEN MADE TO BASIC TRAINING PROGRAMS CONDUCTED BY THE CENTER TO INCLUDE ADDITIONAL INSTRUCTIONAL BLOCKS ON TERRORISM. THE NUMBER OF HOURS THAT HAVE BEEN ADDED TO

EACH BASIC PROGRAM VARIES ACCORDING TO THE NEEDS OF THE AGENCIES ATTENDING THE PROGRAM AND RANGE FROM FOUR TO 28 HOURS. ADDITIONALLY, THE CENTER HAS IDENTIFIED THREE AREAS FOR ADVANCED TRAINING PROGRAMS:

- ANTI-TERRORISM MANAGEMENT--DESIGNED FOR SUPERVISORS AND MANAGERS. THE DEVELOPMENT OF THIS PROGRAM HAS BEEN COMPLETED AND A PILOT PROGRAM WAS CONDUCTED IN FEBRUARY.

- TERRORIST INCIDENT CONTAINMENT--DESIGNED FOR SECURITY FORCES EXPECTED TO CONTAIN AN INCIDENT UNTIL THE PROPER RESPONSE TEAM ARRIVES. THIS PROGRAM WILL BE READY FOR PRESENTATION DURING THIS FISCAL YEAR.

- PHYSICAL SECURITY FOR MANAGERS--RELATING TO THE MANAGEMENT OF PHYSICAL SECURITY RESOURCES AND FACILITIES. IT IS ANTICIPATED THAT THIS PROGRAM WILL BE READY FOR USE DURING THE LAST QUARTER OF FISCAL YEAR 1988.

THE CENTER, IN COOPERATION WITH THE U.S. CUSTOMS SERVICE AND THE IMMIGRATION AND NATURALIZATION SERVICE, ALSO PRODUCED A VIDEOTAPE ENTITLED, "THE FIRST LINE OF DEFENSE" WHICH IS BEING USED FOR IN-SERVICE TRAINING. THE CENTER IS NOW IN THE PROCESS OF DETERMINING THE NEED FOR THE PRODUCTION OF ADDITIONAL VIDEOTAPES REGARDING ANTI-TERRORISM TRAINING.

FINALLY, IN RESPONSE TO A DIRECTION FROM THE CONGRESS IN THE REPORT WHICH ACCOMPANIED THE CONTINUING RESOLUTION FOR THE CENTER'S FISCAL YEAR 1988 APPROPRIATION, I HAVE ESTABLISHED A COMMITTEE AT THE CENTER TO EVALUATE THE NEED FOR MARITIME ANTI-TERRORISM AND SEAPORT SECURITY TRAINING. THE CENTER'S REPORT TO THIS COMMITTEE WILL INCLUDE A DETERMINATION OF THE NEED, THE FEASIBILITY, AND COST OF SUCH TRAINING. OF COURSE, WE

WILL KEEP THE MEMBERS OF THIS COMMITTEE INFORMED OF DEVELOPMENTS AS THEY OCCUR.

CLOSING

MR. CHAIRMAN, AND MEMBERS OF THE SUBCOMMITTEE, IN CLOSING, I WOULD LIKE TO SAY THAT I REMAIN COMMITTED TO THE EFFORTS OF THE ADMINISTRATION AND THIS SUBCOMMITTEE TO REDUCE GOVERNMENT EXPENDITURES. AT THE SAME TIME, I AM COMMITTED TO THE MISSION OF THE CENTER TO PROVIDE THE BEST TRAINING AVAILABLE TO THE MEN AND WOMEN IN LAW ENFORCEMENT. SUBSTANTIAL SAVINGS ARE BEING REALIZED THROUGH THE OPERATION OF THE CENTER AS A CONSOLIDATED TRAINING FACILITY, AND I RECOGNIZE THAT THE SUCCESS OF THE FEDERAL LAW ENFORCEMENT TRAINING CENTER IS MADE POSSIBLE, IN LARGE PART, THROUGH THIS COMMITTEE'S SUPPORT AND GUIDANCE. I LOOK FORWARD TO YOUR CONTINUED SUPPORT AS WE STRIVE TO REMAIN A CENTER OF EXCELLENCE.

MY COLLEAGUES AND I ARE AVAILABLE TO ANSWER ANY QUESTIONS YOU MAY HAVE CONCERNING THIS APPROPRIATION REQUEST.

REMARKS BY MR. SIMPSON

Mr. SIMPSON. I would like to make some very brief remarks of my own, if that is agreeable.

Senator DECONCINI. Please proceed.

Mr. SIMPSON. Fiscal year 1988 is somewhat of a milestone in the history of the Center because it marks the first year in which, even with the most adroit scheduling, the training demands will actually exceed the capacity of the Center's facilities.

In terms of classroom space, dining space, and dormitory space, demand will exceed the Center's capacity by an average of about 400 students. The Center is making temporary provisions, which Director Rinkevich will explain, to accommodate the excess demand. The Center is also making long-term provisions to handle the demand for law enforcement training.

As you know, Congress provided the funds in the 1986 budget for construction of a new dormitory. That construction is now underway and the dormitory is expected to be completed in January 1989. I regret that the Congress has already selected a name for the dormitory in the continuing resolution, but if Senator Domenici would like to come down this spring, we will find a suitable place to put a plaque.

Senator DECONCINI. I will be sure that he gets that message.

Mr. SIMPSON. I might mention that the Center is also undertaking a study of the long-term needs for law enforcement training that will enable all of us to plan better for the future.

In a sense, Mr. Chairman, the crowding problem at the Center is the best indication of the Center's success. I want to express our recognition at Treasury that that success is in large measure attributable to the long-standing, constant, and strong support that this committee has given to the Center. We appreciate that support very much, and we intend to do whatever we can to earn it in the future.

Senator DECONCINI. Thank you, Mr. Simpson. Mr. Rinkevich, would you please summarize your statement.

Mr. RINKEVICH. Mr. Chairman, I would like, in the interest of time, to skim through it and summarize parts of it.

INTRODUCTORY REMARKS

I would also like to introduce Deputy Director Joe Miller, who is on my right. Immediately to the right of him is Bill Kelso, who is our Assistant Director for Administration, and John Dooher, on my left, who is our Assistant Director for the Washington office.

I should mention, before I begin, Senator, that the Federal Law Enforcement Training Center is well aware of Senator Domenici's involvement in the creation of our facility at Glynco. He and I have chatted about that in the past. His involvement is clearly a part of the Center's legacy, so he need not be concerned about that.

Senator DECONCINI. Maybe you had better get him down there, give him a hat, and a tour.

Mr. RINKEVICH. He has been invited and, of course, he will be invited again. He did attend the original groundbreaking of the Center back in 1975.

Senator DECONCINI. He has been a strong promoter here since I have been on the committee.

Mr. RINKEVICH. Yes; he has. We appreciate his support as well as yours.

CENTER'S MISSION

As you know, Mr. Chairman, the Center's mission is to provide basic and advanced training for the majority of the Federal Government law enforcement personnel. We also provide training for State and local enforcement in specialized areas, and support the training provided by our participating agencies that is specific to their needs.

Over the years, the Center has successfully demonstrated that the concept of consolidated training for Federal law enforcement personnel can and does work. For the past 18 years, with the support of this subcommittee, the Center has provided quality, cost efficient training to over 130,000 Federal, State, and local students.

Consolidated training provides the opportunity for resource sharing and gives students the chance to learn about the mission of other Government agencies. The students also have the opportunity to meet personnel from other agencies with whom they will be dealing in the field.

COST SAVINGS

The operation of a consolidated, residential training center has also proven to be very cost effective. For example, one of our greatest savings is in the cost of housing and feeding students. The current per diem rate in Washington and other major cities is $117, while the Center is able to house and feed students for $21 a day. Using the projected 1989 workload, we anticipate the Government will avoid $57.5 million of per diem costs alone when comparing the use of Glynco with training sites in major cities.

TRAINING PROJECTIONS

During fiscal year 1988, the Center will be facing its most challenging year to date. The projections provided by our participating agencies indicate that we will be expected to train 27,811 students. This is a 55-percent increase in students, and a 77-percent increase in student weeks over the actual training conducted in fiscal year 1987.

I will touch on our plans to meet these demands later in my comments, but I would like to say at this time that I am extremely pleased with the ingenuity and the determination of the Center staff as well as the staff of our agencies in developing strategies to accommodate the additional workload.

PARTICIPATING AGENCIES

In regard to our agencies, when the Center first moved to Glynco in 1975, we had 26 participating organizations. We now have 63. This past year we added three more agencies—the Department of Commerce, Office of Export Enforcement; the Railroad Retirement Board, Office of Inspector General; and the Defense Protective Service, which is a newly created civilian force to provide secuirty for the Pentagon.

WORKLOAD INCREASES

During fiscal year 1987, we trained nearly 18,000 students. This total included 14,355 who were trained at Glynco in basic, advanced, and State and local training programs; 2,192 students trained at our satellite facility in Marana; and 1,340 students trained in programs conducted at various other locations around the United States.

As previously mentioned, the projected 55-percent increase in our fiscal year 1988 workload is not only dramatic, but it has presented an enormous challenge for us. These numbers convert to an average resident student population of 2,250 students and a peak average resident student population of 2,323 students.

I would like to share with you some of the plans we have developed to accommodate this unprecedented amount of training. Since the increased population will affect all areas of our operations, including dining and housing facilities, classrooms, office space, staff, and support functions, our plan addresses each of these components.

First of all we are short about 400 rooms in our present residential housing for the amount of students that we will be training this year. We have gone to the local community and contracted for two motels to provide that increased housing.

We have also increased our student transportation system so that we can move the students back and forth between the motels and the Center so that they can take advantage of our Center facilities.

We have brought in 25 portable buildings that we have attached to permanent structures at the Center. Most of these buildings are classrooms, about four of them are offices, and two of them are special training facilities that are geared toward our Firearms Program.

We also have opened a floor on one of our buildings near our dining hall to create a temporary dining capacity because we have a shortage of about 400 places to feed students during the noon meal. We accommodated that with a hurry-up remodeling of a building that we turned into a temporary dining facility.

Also, we have gone to our agencies, who are contributing to the workload, and asked them to provide additional temporary staff. They provided us with about 30 additional instructors.

We hope that the steps we have taken to meet the training requests are temporary at best, and will remain only for the short term. However, if the trend of steadily increasing workload continues as it has over the recent years, there will be a need for a more permanent expansion of Glynco.

NEW DORMITORY CONSTRUCTION

One permanent expansion is already underway with the construction of a 228-bed dormitory. Mr. Chairman, you will recall that Congress appropriated $6 million for this project, and construction began in July 1987. The anticipated completion date is still January 1989.

Pursuant to Congress' direction and recognizing the significant contributions to the Center made by the clerk of our House subcommittee, this new dormitory will be named the Audrey A. "Tex" Gunnels Dormitory Complex.

I have with me, in this book, Mr. Chairman, a set of photographs that will give you an update on the construction progress. Also toward the end of that collection are some photographs of the temporary classrooms that we have brought into the Center.

LONG-RANGE PLAN

In regard to our facility needs, I am pleased to report on our progress in the development of a new facilities master plan as part of the Center's overall long-range plan. The Center's last formally developed facilities plan was prepared in 1976. Over the years that plan has been amended and modified in response to the Center's rapidly growing training workload.

The increase in the number of participating organizations and the influx of students over the years have brought about the need for many unanticipated changes to the physical configuration of the Center. A viable plan is essential to provide management with information to establish priorities, allocate resources, and insure that the facilities are available to support our mission.

We have been authorized by the Congress in fiscal year 1988 to spend up to $200,000 for an update of the facilities master plan. We are about to select, through the competitive bidding process, a consultant who will do that for us.

MARANA OPERATIONS

You will have a particular interest in knowing that our Marana operation has continued to serve us very well. It is particularly important to us this year. Because of this increased training that we have at Glynco, we are shifting some of our basic training to Marana, principally the U.S. Customs Service basic training.

Marana has grown over the course of the last year, and it continues to do the Bureau of Indian Affairs training as well as the advanced training for officers and agents posted in the West. Now, it is beginning to pick up a little bit more of the basic training that we can move out there that doesn't require all of the special training facilities.

During 1987, a total of 2,199 students graduated from Marana, including 489 students from the Indian Police Academy and 1,703 students from other advanced programs.

WORKLOAD STATISTICS

Mr. Chairman, I call your attention to page 11 of my statement concerning the FLETC workload statistics for fiscal year 1987 along with projections for fiscal years 1988 and 1989. I will not review that chart in detail, but we will be happy to answer any questions that you may have.

FISCAL YEAR 1989 BUDGET REQUEST

If I may, I would like to turn your attention to the Center's fiscal year 1989 request. Our request for fiscal year 1989 is for $26,525,000, and we anticipate $13,465,000 in reimbursable funding for a total fiscal year 1989 budget of $39,990,000. This amount will provide training for a total of 23,374 students—11,350 in basic programs, 9,559 in advanced programs, and 2,465 in State and local programs.

The Center receives reimbursement from the agencies to cover the cost of food and lodging for basic students; all costs associated with advanced training, including food, lodging, and course costs; for State and local training programs; and to cover the cost of support provided to the onsite participating organizations.

As you know, prior to fiscal year 1987, our funding policy had been that the Center paid for the total basic training costs, including student travel, meals, lodging, and course costs. Beginning in 1987, under a new funding policy, the Center will only fund the direct costs of training. Direct training costs include such items as instructor salaries and benefits, support personnel, utilities, printing, role players, ammunition, and materials and supplies. The participating organization then assume responsibility for their respective student costs of travel, meals, and lodging.

MINOR CONSTRUCTION AND MAINTENANCE

In our budget request for 1989 is a $3 million no-year funding request for our major maintenance and minor construction account. As you know, the Center occupies 1,500 acres, with over 100 buildings, and this amount is necessary on a no-year basis for us to maintain the state-of-art facilities that we are entrusted with.

STATE AND LOCAL TRAINING PROGRAMS

Our National Center for State and Local Training continues to meet our every expectation. We have over 30 advanced programs that we now offer through the national Center. During 1987, several new programs were developed, including the Juvenile Justice Program, the Hazardous Waste Investigations Training Program, Armed Criminal Investigations Training Program, and Arson for Profit for State Prosecutors' Training Program.

The national center has achieved a great success in a relatively short timeframe. Often, the number of requests from State and local agencies exceeds the space capacities at Glynco. In order to insure that the State and local training workload does not reduce the availability of Center facilities and resources for Federal training, it has been our practice to conduct many State and local programs at other sites around the country.

During fiscal year 1987, 2,472 State and local students were trained through the national center. This budget request in the amount of $875,000 will provide program development and administrative support to train 2,465 students—about 1,463 at Glynco and 1,002 at various other sites.

Mr. Chairman, you will also be interested to know that our national center has been working with the Drug Policy Board's Operation Alliance by providing training support addressing major elements of drug interdiction along the Southwest border.

AUTOMATED DATA PROCESSING MODERNIZATION

I am particularly pleased to report that the Center is moving forward with its ADP modernization efforts. We have put our financial management system onto the computer. We are in the process of putting our procurement system on the computer.

Our student testing system, which is a very labor intensive system, has been almost completely computerized. Our next step is to actually have the students sit in front of a terminal and take the test. We do everything else by computer except for that at this point.

I think to date the most significant accomplishment that we have had at Glynco in ADP technology is the installation of our training management system. Following an extensive analysis by our staff and the Treasury Department's Office of Electronic Systems and Information Technology, and several paid and unpaid consultants, we have developed an automated system for class program and staff scheduling functions which is the core of our training management and delivery.

The purpose of the system, which consists of seven modules, is to automate all scheduling functions, including student housing, classroom facilities, and instructor assignments in order to maximize the utilization of these resources, avoid conflicting assignments, and utilize the best qualified instructors available for each block of instruction.

FINANCIAL CRIME INVESTIGATIVE INSTITUTE

As you are well aware, Mr. Chairman, financial crimes are a sophisticated, growing and rapidly changing international phenomenon, which the law enforcement community must address. Over the last several years, the concept of a Financial Crime Investigative Institute [FCII] has been evolving within the Center's existing Computer and Economic Crime Division.

Law enforcement agencies have come to realize that what is needed is not only training in traditional financial investigative techniques, but also training in the area of computer fraud, money laundering, and the use of microcomputers as investigative tools.

In addition to offering innovative training programs, our plans for our Financial Crime Investigative Institute include maintenance of an electronic data base and central storage point for training software, with an electronic bulletin board, to enable an exchange of training sources and programs among agencies.

Additionally, the FCII will be a center for computer based training, development, and program distribution.

Senator DECONCINI. Mr. Rinkevich, let me just have the rest of your statement submitted. My time is running a little short, and I have a couple of questions.

Mr. RINKEVICH. Fine.

Senator DECONCINI. One of my questions was for Mr. Keating. Mr. Simpson, prepare yourself.

TRAINING WORKLOAD

I am concerned about Mr. Keating's statement. I must tell you that I didn't read your statement, but Mr. Mills did and he points out something very interesting to me.

> The ability of this Center to accommodate your law enforcement training needs is an essential element to the administration's ability to launch a full-scale Operation Alliance initiative along the Southwest border and to enhance its other law enforcement efforts.

Your statement is chock full of praise for the Center and its ability to tackle the tough tasks with very limited dollars. However, you must be deeply concerned about the Center's ability to handle the training workload that Mr. Rinkevich has mentioned and the commitment from the Attorney General and Mr. Keating regarding Operation Alliance.

How do you rationalize a reduction in this budget, from Treasury's point of view, and at the same time the administration's commitment to fill all these positions.

I just find some inconsistencies there and maybe you can explain them.

Mr. SIMPSON. Let me give you a partial answer, Mr. Chairman.

We are serious about those initiatives; we intend to go forward with them; and we intend to see that the new personnel are trained. Let me give you an answer that embarrasses me a little bit.

What you are seeing in this budget is not a proposal that less training be done. It is a proposal that we reallocate the cost of that training from the Center to the constituent agencies.

When the Center was created over a decade ago, the principle was that the Center would bear the expenses of the training, not only direct costs of training, but also lodging, food, and travel associated with training. In fiscal year 1987, we had to give up paying for those costs at the Center—the travel, the lodging and food—and we had to restrict ourselves to paying for direct training alone. I am talking about basic training. In fiscal year 1989, we are going to have to retrench still further. The Center will only be paying for about 74 or 75 percent of the cost of direct basic training.

Senator DECONCINI. That accounts for the reduction?

Mr. SIMPSON. Yes, sir.

This does not mean that the training will not be done.

Senator DECONCINI. Let me interrupt you for a moment. The agencies that you are training officers for have their training budgets gone up? I can find that out, but I wonder if you know.

Mr. SIMPSON. As a matter of fact, the answer is no. In most cases, they will have to absorb the additional costs.

Senator DECONCINI. The agencies under your Department, like Customs, have their training budgets gone up?

Mr. SIMPSON. They will have to absorb the cost of training.

Senator DECONCINI. How do you rationalize that?

You say here, on the one hand, that they have to reduce. Yet you say to Customs and the other law enforcement agencies that they have to provide it, but we are not going to give you any money for it. Is that realistic?

Mr. SIMPSON. It is necessary. We started with a budget target that came out of the budget summit last December. It meant some budget cuts.

Senator DECONCINI. What you are telling me is that you are making a real cut in training.

Mr. SIMPSON. It is not a cut in training, but it is a shift of the burden.

Senator DECONCINI. No; if you are not providing the money for Customs to absorb it, then Customs is paying for the cut in training rather than the Center. That is what you are telling us.

Mr. SIMPSON. I want to make it clear, though, that the number of students being trained will not be reduced.

Senator DECONCINI. I understand that.

Mr. SIMPSON. The burden of paying for it will be shifted, and that is a little tricky.

Senator DECONCINI. It is not tricky. It is clear to me what is going on. It is not encouraging at all from the standpoint of how you are going to make those commitments, expect Customs, BATF, DEA, and other agencies in the administration to meet their commitments to Operation Alliance, or Jamaica Posse, or whatever it may be, when you are saying: Absorb the training.

FISCAL YEAR 1989 FUNDING REQUEST

What you are saying is, we are cutting training. That is what you are saying because that is going to be one of the first things to go. Maybe you can't do anything about it, but I do ask, what was your original request to the Treasury Department for 1989?

Mr. RINKEVICH. The original request was $31 million.

Senator DECONCINI. What did you get, $25 million?

Mr. RINKEVICH. We have $26 million.

Ms. KENT. Let me indicate, though, that Treasury asked OMB for a total of $28 million.

Senator DECONCINI. You asked for $28 million?

Ms. KENT. On appeal.

Senator DECONCINI. You asked for $31 million.

Mr. RINKEVICH. We asked for $31.6 million.

Senator DECONCINI. You got $26.5 million.

Ms. KENT. Mr. Chairman, the difference in Treasury's request did not account for coverage of training costs. We would have fully covered the basic training costs that we have covered for the past couple of years. There were some other items that were not covered. Treasury's appeal request to OMB covered training.

Senator DECONCINI. I just feel that it is very, very inadequate, the amount of money there, and we will have to address that in due time.

I appreciate your situation, Mr. Simpson. It doesn't wash well with me, and I don't mean that personally. It does seem to me that, in fact, you are cutting training because either it is not that important or OMB can't be convinced.

MARANA'S LEASE AGREEMENT

Going to something of great interest to me, Mr. Rinkevich, about Marana. Can you tell us how you are doing out there with the lease arrangements for the Marana Center, with the current lease holder, Evergreen?

You were having some problems there last year. Has it changed, or is it still a bad situation?

Mr. RINKEVICH. Yes; it has changed. It has improved considerably. The corporation that is the landlord for that facility has provided new leadership there. We are, as a matter of fact, working very well with them. We have a very positive relationship.

We hope to have a modification to our existing lease, and we are anticipating an extension of that existing lease with them.

Senator DECONCINI. You are finding a better situation? Good for you.

Mr. RINKEVICH. Yes, Mr. Chairman; we are very pleased with it. Part of the problem had been a change in their leadership over time, a fairly inconsistent leadership. We hope that it will settle down. We have made great progress out there.

TRAVEL APPROPRIATION

Senator DECONCINI. The committee went on record in favor of substantial travel cuts for all agencies under the Treasury section, including your agency. Congress appropriated about $6 million more than the President requested in fiscal year 1988, and I notice on the fiscal year 1988 table, on page 1, your 1988 budget plan calls for nearly doubling the President's original 1988 requested travel appropriation. Travel dropped slightly in 1989.

Why weren't you able to take a cut in travel in 1988 as the committee directed?

Mr. RINKEVICH. We will have to submit an answer for the record.

Senator DECONCINI. Fine.
[The information follows:]

TRAVEL EXPENSES REDUCED FOR FISCAL YEAR 1988

The Center was very aware of the Senate's recommendation and we have taken every measure to ensure that travel costs are kept to a minimum. There are two major reasons for the increase. First, the Center's workload has increased drastically, therefore, the direct cost of training has increased. Included in the direct cost of training is the rental of vehicles to be used in driver training and the funding for the contractor to provide transportation from the airport to the Center and also on the Center. The second reason is that the Center received an increase of 63 FTE in July 1987. The vast majority of these new hires will be brought aboard during fiscal year 1988 and permanent change of station travel funds will be necessary. Also, you will note that there is a decrease in the amount requested for travel in the Center's request for fiscal year 1989. This is indicative of our understanding of the problem and our willingness to cooperate in reducing travel costs.

TRAINING OF FOREIGN LAW ENFORCEMENT OFFICIALS

Senator DECONCINI. I am pleased to see that the President has concurred with the Congress in authorizing your agency to train foreign law enforcement officials on a space available basis and reimbursement of actual costs. Last year, he proposed eliminating this language in the bill, and it is not eliminated this year.

I believe that we should bend over backward to accommodate requests from friendly, cooperative foreign countries for training, especially drug enforcement training. The Bahamas, for example, is participating in joint operations with the Customs Service and other agencies, but their officials desperately need training. I think that we should give them all that we can.

What are your plans for 1988 and 1989 based on the huge pressure you are under, the less money you have? How is that going to affect training of foreign law enforcement officials?

Mr. RINKEVICH. I can't give you a precise answer, Mr. Chairman, other than to say that it is the Center's policy, and our Board of Directors' direction to us, that, obviously, Federal law enforcement training receive priority. In fact, priority over our State and local training.

We have had to displace during this current fiscal year some State and local training. We are continuing to do an adequate amount, but we are just doing it at different locations.

If it came to a request from a foreign government, we would have to be sure that we could accommodate that without in any way jeopardizing our ability to handle the Federal training. We have been able to do that to date.

Senator DECONCINI. How many have you trained, is it in your statement?

Mr. RINKEVICH. It is not in my statement, but I can tell you. In 1987, we trained a total of 117 students. We do not have any projections for what we will train in this current year or in the next year because there is no way to gather that. Those are mostly ad hoc requests.

I can tell you that most of those requests are training of students that we have done for our participating organizations. For example, of that 117 that we trained in 1987, 73 were for the State Department in their Antiterrorism Program. In other words, they come to us with that number of students and ask us to do the training for them. The next biggest number was 29, which we did for DEA.

Most of that training is on behalf of agencies who have their own interests in having counterparts trained in foreign countries.

Senator DECONCINI. You are reimbursed, of course, for all that.

Mr. RINKEVICH. It is completely reimbursed, and it is on a space-available basis.

Senator DECONCINI. Does it come from the agency, or does it come from the foreign government?

Mr. RINKEVICH. It depends. Most often it comes from the agency. The State Department program, for example, I think is almost exclusively funded by our State Department, but it comes out of their budget to our budget.

In Marana, in fact, we trained a fairly significant number of Saudi Arabians in 1987, and that was paid for by the Saudi Government.

Senator DECONCINI. Do you do any Mexican training?

Mr. RINKEVICH. We have not done any Mexican training to date. I should tell you that there is a request on our table for some Mexican training, but we have not resolved it.

Senator DECONCINI. When you say that they come ad hoc, do you mean that tomorrow you may have a request from DEA or Border Patrol to train some people in Mexico?

Mr. RINKEVICH. That is right.

Senator DECONCINI. Then you consider whether or not you can fit it in?

Mr. RINKEVICH. That is exactly right. Usually there is lead time for it.

TRAINING OF BASIC CLASSES

Senator DECONCINI. My last question. How long a period of time is the waiting for a new Customs class, or a new BATF class, or a new border patrol class?

If they are in a hiring mode now, as the border patrol is, how long would they have to wait before a class would begin? Is it a delay because of no space, or is it just a delay in scheduling?

Mr. RINKEVICH. It has been in the past a delay because of no space. But I can tell you that we have exhausted or eliminated that delay because of no space. We are now, to my knowledge, completely current with the requests that the agencies have made to us, and that is because we have taken these extraordinary steps to increase our capacity with temporary classrooms, and off-Center housing.

Last fall, we faced a serious problem with delay because of space. We did have a number of Customs, ATF, and some other agencies that had agents hired and posted without being trained. But we have eliminated that backlog, and we are now keeping current. I am sure that there are one or two in the system out there that have not been sent to us, but basically that backlog has been eliminated.

Mr. MILLER. I wanted to add that there has been a cost for that, because in order to do it, we have had to place total priority on basic training. Therefore, some of our advanced and specialized training are starting to backlog. There has been a cost, but we have eliminated those waiting lists for the most part.

Senator DECONCINI. I am impressed as well with what you do, particularly as your budget gets cut. It is discouraging to see OMB not understand what is going on there. Maybe we will have to bring it to their attention.

ADDITIONAL COMMITTEE QUESTIONS

In any event, I thank you very much for your testimony. Thank you, Mr. Simpson. Ms. Kent, thank you as usual.

There will be some additional questions that we will be submitting to you for your response from several Senators.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

DRUG BILL EFFECT ON CENTER

SENATOR DECONCINI. One of the worst kept secrets in town is that Senator D'Amato and I intend to introduce a new comprehensive omnibus drug bill within the next few weeks. It will call for substantial increase in drug enforcement personnel, equipment and a three-year authorization for the Federal Law Enforcement Training Center, with increases to accommodate the influx of new officers we hope to bring on-line.

How much of an increase in workload would the Center be able to accommodate with a budget of $35 million in fiscal year 1989--the level of funding we will propose in the drug bill for the Center next year?

MR. RINKEVICH. 2,100 students representing 21,000 student-weeks.

DEA AND INS NEED MORE TRAINING FACILITIES

SENATOR DECONCINI. I understand that both DEA and INS are looking for additional training facilities to accommodate their growing training requirements. I am also told that both agencies may be looking toward your agency as a possible solution to their problem. There may be some alternatives available in New Mexico, and perhaps you could expand your operations at Glynco and Marana to accommodate at least part of this new requirement.

What, if any, plans does your agency have to accommodate increased training needs of INS and DEA, and where does Marana fit into those plans?

MR. RINKEVICH. The DEA training activity was transferred from the FLETC to the FBI training facility at Quantico at the start of FY 1986. As far as we know, all of their training needs are accomplished there and we have no plans to accommodate any DEA training at Glynco.

In the past the Center has been able to meet all INS Basic training requirements at Glynco. We are currently conducting an analysis, with related costs, of the FY 1989 INS training requirements. The preliminary findings indicate that, with financial and staff support from INS, we will be able to accommodate the training. Marana will be a very important resource to us in meeting this increased training.

MARANA OPERATIONS

SENATOR DECONCINI. With the continuation of Operation Alliance and the presence of more Customs Service law enforcement personnel on the southwest border, Marana is becoming more and more important as your advanced training center.

Tell us where you are with settling the lease arrangement for the Marana Center with the current leaseholder, Evergreen, Inc.

MR. RINKEVICH. Evergreen has had a change in leadership and we are now enjoying a good working relationship with them. We are in the final stages of negotiating a new lease with Evergreen. Terms and conditions are essentially agreed to and we have made great progress at Marana.

SENATOR DECONCINI. Can you give us the latest workload data for Marana; compare it to your estimates for FY 1989; and give us your long-range plans for renovation and expansion of Marana's mission.

MR. RINKEVICH. The workload projected in the FY 1989 budget, received in July 1987 was for 470 students representing 1,926 student-weeks. The latest workload for Marana, received in January 1988, is for 2,205 students representing 4,607 student-weeks of training. This is an increase of 1,735 students and 2,681 student-weeks. Upon signing the new lease with Evergreen, we are prepared to perform some renovations to the Marana facility. The plans include additional physical training facilities, firearms ranges, and classrooms as well as some other specialized facilities. When these are completed, the major constraint will then be beds. However, Evergreen would be willing to construct additional beds for us if we can guarantee them a fixed level of utilization. These beds could be brought on line relatively quick. Marana has the capacity to react quickly to changing or increased training requirements. It is particularly ideal for the Advanced training programs of the participating agencies who have large numbers of personnel posted in the western United States.

LONG RANGE PLANS

SENATOR DECONCINI. You acknowledge in your testimony that $200,000 was appropriated by Congress for the development of a new Center facilities plan. You indicate that you intend to hire a consultant to help you develop this long-range development plan, but surely you must have some idea about your expansion and physical plant requirements - even before you hire a consultant to study your needs. You have already alluded to the lack of adequate housing for your students and Congress has already appropriated funds for a new dormitory.

What is your early estimate of the cost of expansion of Glynco and its satellite facility at Marana to accommodate the projected training workload for the next ten years? Give us a good ballpark estimate now and any detail for the record.

MR. RINKEVICH. If the workload remains stable at the FY 1988-1989 level, we estimate that the total cost for facilities expansion to meet the needs for the next ten years will be in the $50 to $60 million range. This would allow the Center to meet the Basic training requirements and the Advanced training workload, which is currently being unmet or conducted in less than desirable fashion. Included in this ballpark estimate would be approximately $1.5 million for Marana. The major enhancements at Glynco include: dormitories, classroom buildings, cafeteria expansion, firearms ranges, physical training complex expansion, practical exercise areas, and logistical/office support areas.

FUNDING BASIC TRAINING

SENATOR D'AMATO. Last year, this committee recommended that any shortfall in meeting the full cost of basic training should be borne by the agencies undergoing training at FLETC. Has that happened, or has FLETC had to absorb those costs?

MR. RINKEVICH. In FY 1987 a shared funding policy was implemented. According to this policy, the Center was to be funded for 100% of the direct costs of Basic training and the participating agencies are to reimburse the Center for food and lodging.

In FY 1987 the Center funded 100% of the direct cost of Basic training. However, in FY 1988 the Center is projecting to fund only 87% of direct cost of the scheduled Basic training. The agencies will reimburse the Center for the remaining 13% of the direct costs of Basic training. In FY 1989, the budget request will fund only 74% of the direct training cost. The agencies will reimburse the Center for the remaining 26% of the direct cost of Basic training.

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QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

PARTICIPATING AGENCIES' BASIC TRAINING REQUESTS

SENATOR DOMENICI. I note from your budget justification documents that FLETC met 100% of its participating organizations' requests for Basic training in fiscal year 1987 and expects to meet 87% of participating organizations' Basic training requests in fiscal year 1988. Your fiscal year 1989 request assumes a decreased funded workload for direct costs of Basic training, i.e., a reduction of $2.59 million resulting from a decrease of 22,972 funded student-weeks. I note from your budget justification that "current estimates of fiscal year 1989 Basic training requirements are almost 17% higher than the estimates used to formulate the budget" and that this shortfall will be assigned to the participating agencies.

First, what percentage of participating agencies' Basic training requests does the Center estimate it will meet with its fiscal year 1989 request?

MR. RINKEVICH. According to requests as of July 1987, which are reflected in the budget submission, the participating organizations are projecting approximately 74,000 student-weeks of Basic training. The budget submission will fund approximately 46,000 student-weeks or 62%. In addition to the Basic training, we expect to conduct a significant amount of Advanced training on a reimbursable basis.

BASIC TRAINING FUNDING

SENATOR DOMENICI. Second, why are we not meeting 100% of participating organizations' requests for Basic training? Shouldn't this be the Center's first priority?

MR. RINKEVICH. The Center's first priority is to meet 100% of the participating agencies basic training requests; and in fact, we plan to do just that. However, considering the workload projections we now have, we will be able to fund only 62% of the direct costs of that basic training. The balance will have to be reimbursed to the Center by the agencies. There are two major reasons why this situation has arisen. First, as you have already noted, the current estimates for FY 1989 are almost 17% higher than the estimates used to formulate the budget. The Center formally requests projections twice a year, in January and July. Past experience indicates that with each projection, the numbers increase. That has happened with this budget submission. Funding is requested based on the projections received in January. By the time the budget cycle has gone through the Department and OMB submission, we have received updated projections. Unless we estimate the increase, we will never fund 100% of the latest projections.

Second, the Center was not authorized to seek funding that would support 100% of the training at the January projection level.

FUNDING OF DIRECT COSTS

SENATOR DOMENICI. Third, if we are not meeting 100% of the participating organizations' Basic training requests, are the agencies budgeting for this or are they perhaps foregoing this training?

MR. RINKEVICH. The established policy is that the Center is funded for all direct costs of conducting Basic training and the agencies reimburse us for food and lodging and all costs of advanced training. It is my understanding, based on this funding policy, that the agencies are not requesting funds for the direct cost of Basic training because they expect the Center to fully fund it. When we experience a shortfall in funding, then the agencies either delay the training or reprogram funds from other areas.

ADDITIONAL FUNDING FOR FY 1989

SENATOR DOMENICI. Fourth, what additional funding would be required for the Center to meet 100% of its participating organizations' Basic training requests in fiscal year 1989?

MR. RINKEVICH. At the level represented in the budget submission, it would require approximately 2.1 million. As noted earlier, the projections are likely going to increase. We estimate that approximately $3.2 million would be required to fund the known shortfall and the increased projections.

GIFT AUTHORITY

SENATOR DOMENICI. I note that the appropriations bill language requested for fiscal year 1989 proposes to delete the current language reading "acceptance of gifts" and requests the insertion of language reading "...the Center is authorized to accept token gifts." Would you please explain the reason for this new language?

MR. RINKEVICH. The acceptance of gifts phrase has been in our language for several years. This year it was decided that the gift authority should be limited to token gifts.

STUDENT INTERNS

SENATOR DOMENICI. The appropriations bill language requested for fiscal year 1989 also requests that "room and board for student interns" be inserted as an authorized use of appropriated funds. Why is this language requested?

MR. RINKEVICH. The Center has had a very active intern program wherein college students, primarily in Criminal Justice or related fields, work at the Center in lieu of attending class and they receive credit for the experience. These students are employed at the GS-1 level and for the intern quarter are temporary employees of the Center. This arrangement has worked well in the past, but with the high cost of living, it is becoming increasingly difficult to attract qualified students, particularly minority students. The proposed language change would allow the Center to provide room and board; therefore, the program would become attractive to a wider range of students. Also, this would permit the intern to participate in more evening conducted training and increase their involvement with the trainees, thus enhancing the learning experience.

BASIC AND ADVANCED TRAINING

SENATOR DOMENICI. How quickly are you meeting the Basic and Advanced training needs of the Center's participating organizations? Are you experiencing any training backlogs?

MR. RINKEVICH. The Basic training requirements are being scheduled almost as soon as the agencies notify us of the need. We have experienced backlogs in Basic training in the past, but we are not aware of any backlog at the present time. Because of the heavy Basic training workload and the priority placed on it by both the Center and the participating agencies, we are not fully meeting the Advanced training needs. Plans are being developed, i.e., the Master Facilities Plan, which will allow us to accommodate the Advanced training needs in the future. Presently, Advanced training is backlogged and some training is being conducted at less than desirable sites. We are in the process of increasing our capacity at both Glynco and Marana so that we can address the shortfall in Advanced training.

TRAINING FOR NON-PARTICIPATING AGENCIES

SENATOR DOMENICI. What percentage of non-participating federal agency training requests are you meeting on a reimbursable basis?

MR. RINKEVICH. The non-participating federal agency trainees are used to fill classes that otherwise would be conducted at reduced size. This results in a more cost-efficient operation. In FY 1987, we had requests totaling 142 students representing 1,104 student-weeks in Basic training for non-participating federal agencies. We actually conducted training for 50 students representing 401 student-weeks for the non-participating agencies. The actual training conducted was approximately 35% of the total request. Also, the 401 student-weeks conducted for non-participating agencies represent less than 1% of the total Basic training conducted by the Center.

COST INCURRED FOR ADDITIONAL SPACE

SENATOR DOMENICI. You mention in your statement that to meet your space shortage, you have contracted with two local motels to provide additional housing, renovated a building for use as a temporary dining facility, and obtained 25 portable buildings. What has been the cost of providing this additional space?

MR. RINKEVICH. The net cost increase for the motels over on-Center housing cost is $572 thousand; for the renovated building to be used as a temporary dining facility $47 thousand; and for the 25 portable buildings $628 thousand. The total cost was $1,247 thousand.

HOUSING SHORTAGE

SENATOR DOMENICI. Even with the opening of the new dormitory in January of next year, what on-Center housing shortages do you project?

MR. RINKEVICH. The dormitory will add 228 beds to the Center's capacity, bringing the new total to 1,438 beds at Glynco. The projected training for FY 1989 averages 1,736 students per day. This results in a shortfall of 298 beds and we would cover the need by an off-Center housing contract. If later projections increase, as anticipated, the shortfall would be even greater.

TRAINING FOR FOREIGN AND PRIVATE SECTOR STUDENTS

SENATOR DOMENICI. Is the Center providing any training to foreign law enforcement or private sector security officials on a reimbursable, space-available basis?

MR. RINKEVICH. Yes, we do. In FY 1987, we trained 17 private sector security officials and 117 foreign nationals on a reimbursable, space available basis.

STATE AND LOCAL TRAINING

SENATOR DOMENICI. The fiscal year 1989 budget request for the National Center for state and local training is $785,000. What level of funding do you estimate state and local agencies will provide for training at the Center?

MR. RINKEVICH. We estimate that the State and local agencies will reimburse the Center $624 thousand. This will be for room and board and the direct costs associated with the training that is not funded by FLETC. The state and local agencies will also fund the student's travel to and from the Center, the student's salary while in training and any miscellaneous per diem that they elect to pay.

QUESTIONS SUBMITTED BY SENATOR ALFONSE M. D'AMATO

DECREASE IN TRAINING

SENATOR D'AMATO. The program decrease involves 3,333 students and 22,972 student-weeks of training in the Basic training programs of the Center. How can we justify this decrease when we need to train more law enforcement officers and not less?

MR. RINKEVICH. The decrease in students and student-weeks pertains to those for which the Center receives funding. The number of students and student-weeks of training that will not be funded by the Center and shown as a decrease will in fact be funded by the requesting agencies on a reimbursable basis. Therefore, if the agencies have the funds, there will be no overall decrease in training, but there will be a deviation from the funding policy.

FY 1989 BUDGET

SENATOR D'AMATO. There is a decrease of $2,147,000 to your budget. How will this affect your operations and, in particular, the decrease of $1,970,000 to your law enforcement training section?

MR. RINKEVICH. There should be no adverse impact on the operations of the Center. The Center's posture will be to fund less training than in FY 1988; however, the agencies will be required to reimburse the costs of the training shortfall in FY 1989.

FUNDING BASIC TRAINING

SENATOR D'AMATO. Last year, this committee recommended that any shortfall in meeting the full cost of basic training should be borne by the agencies undergoing training at FLETC. Has that happened, or has FLETC had to absorb those costs?

MR. RINKEVICH. In FY 1987 a shared funding policy was implemented. According to this policy, the Center was to be funded for 100% of the direct costs of Basic training and the participating agencies are to reimburse the Center for food and lodging.

In FY 1987 the Center funded 100% of the direct costs of Basic training. However, in FY 1988 the Center is projecting to fund only 87% of direct cost of the scheduled Basic training. The agencies will reimburse the Center for the remaining 13% of the direct costs of Basic training. In FY 1989, the budget request will fund only 74% of the direct training cost. The agencies will reimburse the Center for the remaining 26% of the direct cost of Basic training.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess until Friday, March 18, when we will receive testimony from the U.S. Tax Court, the Committee for Purchase for the Blind and Other Severely Handicapped, the Advisory Commission on Intergovernmental Relations, the Merit System Protection Board, Office of Special Counsel, the Advisory Committee on Federal Pay, and the Federal Labor Relations Authority.

[Whereupon, at 2:55 p.m., Thursday, March 3, the subcommittee was recessed, to reconvene at 9:30 a.m., Friday, March 18.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1989

FRIDAY, MARCH 18, 1988

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:40 a.m., in room SD-116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini and Domenici.

U.S. MERIT SYSTEMS PROTECTION BOARD

STATEMENTS OF:

- DANIEL R. LEVINSON, CHAIRMAN
- MARY F. WIESEMAN, SPECIAL COUNSEL, OFFICE OF THE SPECIAL COUNSEL

ACCOMPANIED BY:

- LUCRETIA F. MYERS, EXECUTIVE DIRECTOR, U.S. MERIT SYSTEMS PROTECTION BOARD
- LLEWELLYN M. FISCHER, GENERAL COUNSEL, U.S. MERIT SYSTEMS PROTECTION BOARD
- ERIN McDONNELL, DEPUTY SPECIAL COUNSEL, OFFICE OF THE SPECIAL COUNSEL
- WILLIAM E. CALDWELL, OPERATIONS MANAGEMENT DIVISION, OFFICE OF THE SPECIAL COUNSEL

OPENING REMARKS

Senator DECONCINI. I regret the lateness due to Intelligence Committee hearings.

This morning the Subcommittee of the Treasury, Postal Service and General Government is meeting to receive testimony from seven witnesses testifying on the fiscal year 1989 budget: The U.S. Tax Court, the Committee for the Purchase for the Blind and Other Severely Handicapped, the Advisory Commission on Intergovernmental Relations, the Merit Systems Protection Board, and the Office of Special Counsel, the Advisory Committee on Federal Pay, and the Federal Labor Relations Board.

Needless to say, we have a full platter and group of witnesses here today. Let me suggest this approach.

First, I would like each witness not to read their full statements. If they would summarize those for us, we will put the full statements in the record.

Second, I would like to ask that each witness hit the highlights of their budget. We will be reviewing them very carefully, their budget requests here.

Third, we will begin the hearing this morning with the Merit Systems Protection Board and the Office of Special Counsel. We will then hear from the Federal Labor Relations Authority and then the U.S. Tax Courts. Following their testimony, we will bring up the final three agencies to the table, as a group, and go through the last round of questions.

I hope that this is satisfactory with everybody's time schedules; we will try to expedite it as best we can.

First, we are going to have the Merit Systems Protection Board.

Mr. Levinson, thank you for being with us.

And, Mary Wieseman.

Would you like to proceed?

Mr. LEVINSON. Yes; thank you, Mr. Chairman.

It is a privilege and a pleasure to appear before you again, this time to discuss our fiscal year 1989 appropriation request for the Merit Systems Protection Board.

I would like to, before beginning, introduce the members of my staff who are appearing with me: To my right, the General Counsel of the Board, Llewellyn Fischer; and to my immediate left, the Executive Director of the Board, Lucretia Myers.

As you know, Mr. Chairman, the Office of the Special Counsel is a separate and distinct entity within the Board and I will, therefore, let the Special Counsel, Mary Wieseman, introduce herself and her staff after I am through with my introductory remarks.

To carry out its mandates, the Board is requesting nearly $20.5 million and 329 FTE work-years. These numbers reflect a decrease of nearly $500,000 from our 1988 appropriation.

The increases that are attributable to the January 1988 general pay increase, as well as to an increase in the limitation on reimbursements from the civil service retirement and disability trust fund, are more than offset by the savings we expect to achieve in the reduction of eight FTE and a revised estimate downward of the cost of the Federal Employees' Retirement System.

You know our work well, Mr. Chairman, so I will not go into great detail about the Board's operations. As you know, however, the Board inherited the employee appeals function that was previously performed by the Civil Service Commission before the Civil Service Reform Act; that is the great bulk of our work.

For 1989, we expect that, barring any dramatic changes in our organic law, we would process approximately 1,350 decisions at the Board level and 7,600 initial appeals around the country.

In addition to that employee appeals function, as you know, we also perform entirely new functions as a result of the Civil Service Reform Act, that is to say, adjudicating the whistleblower cases that are brought before the Board by the special counsel and we also perform what we view as a very important merit systems review and studies function as well as a review of the significant actions of the Office of Personnel Management.

You will see in our budget request details in both of those areas.

We have initiated a number of important reforms in the Board during this past year and one-half. We are particularly pleased with the increase in settlements that we are achieving as a result of getting administrative judges more involved in the employee appeals process.

We have experienced a 47-percent increase in fiscal year 1987 of settlements around the country and that has served us well on a number of levels. It not only ensures as fair a process as possible for both agencies and employees, but obviously can have important cost savings for the Board as well. We attribute some of the savings that we are able to achieve to the settlement increases that we have experienced.

PREPARED STATEMENT

Other reforms are explained in more detail in our budget request, but let me end my statement now.

Thank you.

[The statement follows:]

STATEMENT OF DANIEL R. LEVINSON

I am pleased to appear before you today to discuss the Fiscal Year 1989 appropriation request for the U.S. Merit Systems Protection Board. To carry out its statutory mandates, the Board is requesting $20,488,000 and 329 full-time equivalent workyears as its Fiscal Year 1989 appropriation. In addition, we are requesting an increase in the limitation on reimbursements from the Civil Service Retirement and Disability Trust Fund from $1,200,000 to $1,400,000. This reflects the increase in the actual cost to the Board of processing retirement appeals.

The Board is an independent, quasi-judicial agency, charged by Congress with protecting the integrity of Federal merit systems against prohibited personnel practices, ensuring adequate protection for employees against abuses by agency management, and requiring Executive branch agencies to make employment decisions based on individual merit. The Board discharges its responsibilities in two important ways. First and primarily, it adjudicates both individual employee appeals, stemming from a wide variety of personnel actions, and individual charges involving prohibited personnel practices brought by the Special Counsel against employees and agencies. Second, the Board exercises systemwide responsibilities by reviewing the significant actions of the Office of Personnel Management (OPM), reviewing OPM rules and regulations for consistency with merit principles, and conducting special studies to evaluate whether the civil service is free of prohibited personnel practices. The Board thereby helps establish standards for efficiency and fairness in the Federal workplace, both in developing a sound civil service jurisprudence, and in providing studies which can assist policymakers in making systemic improvements.

Given the importance of the Board's adjudicatory role, I am pleased to report that its decisions continue to earn deference before the courts. During the most recent fiscal year, 94 percent of the Board's decisions reviewed by the United States Court of Appeals for the Federal Circuit were unchanged. This record compares favorably with those of other administrative tribunals.

Consistent with Congressional intent, the Board also strives to adjudicate in a timely manner. Cases continue to be processed as quickly as agency resources, and the due process protections for the parties, allow. On the average, our administrative judges issue decisions in 75 days. Virtually all regional office cases are decided within 120 days -- 99.8 percent in Fiscal Year 1987. Many of the more complex cases are further appealed to the collegial three-member Board. During Fiscal Year 1987 the Board averaged 149 days to adjudicate these cases.

The Board anticipates that in Fiscal Year 1989 it will issue approximately 7,600 initial appeals decisions and 1,350 decisions on petitions for review. In addition, the Board's workload will include original jurisdiction cases, such as Special Counsel actions, court remands and cases which the Board will reopen "on its own motion," compliance referrals from the regional offices, and such matters as interlocutory appeals and subpoena requests. The Board is committed to handling this caseload efficiently, with due consideration for the important individual and, in many cases, systemic interests involved in these matters.

The Board is also taking an aggressive and constructive posture with respect to its other important function, the review and study of OPM actions and the Government's merit systems generally. During Fiscal Year 1987 the Board issued four study reports, including two of five reports on the significant actions of OPM and our annual report on the Board's appeals decisions. By the end of the calendar year, four more reports, including two OPM significant action studies, had been approved. In addition, substantial work was completed on three other studies (including the final OPM significant action report) which are to be issued soon, including an update of the Board's 1981 landmark study of sexual harassment in the Federal Government.

Board studies included in the current research agenda will, in many cases, continue into Fiscal Year 1989. In addition to the annual reports on the significant actions of OPM and the Board's appeals decisions, we plan a major series of reports on the impact of the Civil Service Reform Act of 1978 during its first 10 years. As always, our research agenda retains flexibility to react, as necessary, to compensation and staffing issues of major importance.

Our appropriation request for Fiscal Year 1989 is fully explained in the MSPB's budget justification before you. As indicated, the request is $469,000 less than our Fiscal Year 1988 appropriation. Savings are achieved in the reduction of eight FTE and a revised estimate of the cost of the Federal Employees Retirement System (FERS). The savings are partially offset by increases attributable to the January 1988 general pay raise and to inflationary increases in support costs. The Board's request is based on the assumption that its workload will remain relatively constant. Our request does not anticipate legislative changes or unexpected events in the Federal workplace that could cause major changes in the number of cases processed by the Board. Both the Whistleblower Protection Act and the Civil Service Due Process Amendments Act, for example, would result in an increase in the Board's workload.

During Fiscal Year 1989 we will continue to explore methods to achieve greater efficiency. For example, we will continue to pursue effective alternative methods of dispute resolution. As a result of our efforts thus far, the rate of voluntary settlement by the parties (in cases which were not dismissed for lack of jurisdiction or timeliness) increased by 47 percent in Fiscal Year 1987. Settlements are both speedier and less costly than full adjudications. In Fiscal Year 1987, the average processing time for settled cases was 68 days, compared to 97 days for cases adjudicated on the merits. Savings are achieved in costs for such items as travel for the parties and the administrative judges, hearing facilities, and recording hearings.

Our success with alternative dispute resolution techniques is but one factor contributing to greater efficiency in the Board's operations. Various management improvements, including greater reliance on automated systems, have also made important contributions. As a result, the Board has been able to redirect some of its resources into such efforts as our "plain English" initiative and outreach activities. The "plain English" initiative involves rewriting certain Board orders and regulations in simple, direct language, rather than "legalese." Outreach activities include appearances by Board members and staff to explain Board procedures and to discuss important issues in Federal personnel law. Both efforts are aimed at assisting those who deal with the Board, in particular the appellant who is not represented by an attorney or other professional counsel.

While the Board is pleased that we have been able to operate more cost-effectively, we are committed to discharging our primary adjudicatory responsibilities with care and deliberation, consistent with the intent of Congress and in a manner that earns us the confidence of Federal employees and the agencies they serve. Our requested appropriation will enable us to meet these challenges.

In closing, I would like to draw your attention to one non-budgetary item, the recently revised seal adopted by the Board last year, which now incorporates the date "1883." That date marks the enactment of the Pendleton Act, which established the merit system and created the Board's predecessor agency, the Civil Service Commission. Its addition is an important reminder that the Board's guardianship of the merit system serves a long and noble tradition in the annals of Government service.

Thank you, Mr. Chairman. I would be pleased to answer any questions you may have.

OFFICE OF THE SPECIAL COUNSEL

Senator DECONCINI. Ms. Wieseman, would you like to go ahead?

Ms. WIESEMAN. Thank you, Mr. Chairman.

Thank you for inviting me here to discuss the Office of the Special Counsel's 1989 budget request.

Let me introduce my staff who are here with me today: To my immediate left is Erin McDonnell, who is the Deputy Special Counsel; and Bill Caldwell, who is the head of our Operations Management Division.

Consistent with the administration's budget, the requested budget authority for fiscal year 1989 is $4,761,000 with 81 FTE positions. This represents an increase of $88,000 over the fiscal year 1988 estimated appropriation of $4,673,000 and an increase of 5 FTE positions with a current FTE level of 76.

The objective of the Office of the Special Counsel is to deal properly and promptly with each allegation or complaint received. During fiscal year 1987, the Office received 1,322 new matters, of which 244 or 18.5 percent contained allegations of reprisal for whistleblowing to which we give particular attention.

Emphasis is given to resolution of all matters through appropriate investigation and initiation of corrective and/or_disciplinary actions, when found warranted, or declination of action in a timely manner, and appropriate disposition of clearly nonmeritorious matters and matters not within the Office's jurisdiction at the earliest possible level of review.

I am pleased to report that during fiscal year 1987—the first year of my term as special counsel—the OSC's efforts led to more corrective actions on behalf of more employees, including whistleblowers, than in any one year since 1981.

OSC has no discretion as to whether it will investigate a matter, because the law requires that the special counsel shall receive any allegation of prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

The Office of Special Counsel has no opportunity to earmark any of its budget items for discretionary activities. Personnel, benefits, rent, communications, supplies, et cetera, comprise well over 90 percent of our budget and any cuts of line items would be reflected in impaired response time.

In our fiscal year 1989 budget submission, we indicated the deleterious effect of staff reductions occasioned by the reduction in current year FTE's to 76 on OSC operations, particularly in the time required to take final action on matters and cases.

In each instance, the processing statistics have further deteriorated during the first quarter of fiscal year 1988. For instance, the average age of complaint under initial review increased over 19 percent, from 60 days to 72.8 days.

The average age of matters pending investigation increased almost 8 percent, from 216 days to 233 days.

The average age of matters undergoing legal review after investigation increased almost 3 percent.

The number of matters over 90 days old also increased, as did the time required to close initial review matters and to conduct postinvestigative legal analysis.

In spite of the actions we have taken to increase backlogs, such as the detail of two investigators, two full-time attorneys and one part-time attorney, and two full-time employees of the Planning and Oversight Division of the office to the complaints examining unit, we have been unable to reverse this trend. These details merely created further backlogs in the offices from which the employees were detailed.

There is every reason to expect a continued deterioration in timeliness of operations, unless we are granted the increase of the five FTE positions requested.

PREPARED STATEMENT

This concludes my formal statement which, along with the budget justification, summarizes the need for the budget request for fiscal year 1989 of $4,761,000 and 81 FTE positions, as submitted by the President.

[The statement follows:]

STATEMENT OF MARY F. WIESEMAN

Thank you for inviting me here today to discuss the budget request for the Office of the Special Counsel for fiscal year 1989. Consistent with the administration's budget, the requested budget authority for fiscal year 1989 is $4,761,000 with 81 FTE positions. This represents an increase of $88,000 over the fiscal year 1988 estimated appropriation of $4,673,000 and an increase of 5 FTE positions from the current FTE level of 76.

The objective of the Office is to deal properly and promptly with each allegation or complaint received. During fiscal year 1987 the Office received 1,322 new matters, of which 244 (18.5 percent) contained allegations of reprisal for whistleblowing to which we give particular scrutiny. Emphasis is given to resolution of all matters through appropriate investigation, and initiation of corrective action and/or disciplinary action (when found warranted) or declination of action in a timely manner, and appropriate disposition of clearly nonmeritorious matters and matters not within the Office's jurisdiction at the earliest possible level of review. I am pleased to report that during fiscal year 1987, the first year of my term, the OSC's efforts led to more corrective actions on behalf of more employees (including whistleblowers) than in any one year since 1981.

OSC has no discretion as to whether it will investigate a matter. Public Law 95-454, 5 U.S.C. 1206(a)(1) requires that "The special counsel shall receive any allegation of prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken." The Office of the Special Counsel has no opportunity to earmark any of its budget items for discretionary activities. Personnel, benefits, rent, communications, supplies, et cetera, comprise well over 90 percent of our budget and any cuts of line items would be reflected in impaired response capability to employee complaints.

In our fiscal year 1989 budget submission, we indicated the deleterious effect of staff reductions occasioned by the reduction in current year FTE's to 76 on OSC operations, particularly in the time required to take final action on matters and cases. In each instance, the processing statistics have further deteriorated during the first quarter of fiscal year 1988.

The average age of complaints under initial review increased over 19 percent—from 60 days to 72.8 days.

The average age of matters pending investigation increased almost 8 percent from 216.8 days to 233.6 days.

The average age of matters undergoing legal review after investigation increased almost 3 percent from 339.3 to 348.5 days.

The number of matters over 90 days old also increased, as did the time required to close initial review matters and to conduct postinvestigative legal analysis. In spite of the actions we have taken to reduce backlogs, such as the detail of two investigators, two full-time attorneys and one part-time attorney, and two full-time employees of the Planning and Oversight Division to the complaints examining unit, we have been unable to reverse this trend. These details merely created further backlogs in the offices from which the employees were detailed. There is every reason to expect a continued deterioration in timeliness of operations unless we are granted the increase of the five FTE positions requested.

This concludes my formal statement which, along with the budget justification, summarizes the need for the budget request of fiscal year 1989 of $4,761,000, and 81 FTE positions, as submitted by the President.

I would be pleased to answer any questions that you or other members of the subcommittee may have at this time.

REPORT ON EXPANDED TEMPORARY APPOINTMENT AUTHORITY

Senator DECONCINI. Thank you, Ms. Wieseman, very much.

Mr. Levinson, in recently released MSPB reports on expanded authority for temporary appointments, it is reported that OPM greatly expanded agency authority to make and extend temporary appointments on December 24, 1984. Agencies were able to extend these appointments for up to 4 years, compared to 2 years previously, and with OPM's approval, even beyond 4 years.

Under the schedule B authority, people can be hired in a vast number of Federal positions without the benefit of merit or civil service examinations. The report stated that this has "increased the civil service system's vulnerability to violations of the merit system principles." While it then goes on to state that there are ways in which management controls can be strengthened, it indicates that these controls are not mandatory.

Given that OPM has demonstrated great reluctance to comply with the courts in devising updated merit exams, what assurance can you give this committee that OPM, with the assistance of the MSPB, will implement those controls?

Mr. LEVINSON. To answer your question directly, Mr. Chairman, we don't have direct authority to require the Office of Personnel Management to change policy. They appear before us as a party in cases, and obviously we have important review responsibilities with respect to their policies, but we cannot force OPM to comply with any particular policy direction that we may suggest through our merit studies function.

Senator DECONCINI. If you only make suggestions to them, they can turn them down, and do turn them down, I presume?

Mr. LEVINSON. We do make recommendations; you may call them suggestions.

Let me add that we have issued recently two reports. One report concerning the status of the schedule B hiring authority in the excepted service, and another separate report concerning temporary hiring authority.

Senator DeConcini. Are you familiar with this report that I made reference to?

Mr. Levinson. Yes; that would be the latter of the reports that I am referring to.

Senator DeConcini. You have studied that report?

Mr. Levinson. Yes; I have.

Senator DeConcini. Have you talked to Mrs. Horner about it?

OFFICE OF PERSONNEL MANAGEMENT RESPONSE TO MERIT SYSTEMS PROTECTION BOARD RECOMMENDATIONS

Mr. Levinson. No; we have not engaged in direct conversations about it, but that report, in the course of its production, was discussed at senior staff levels between the Board and OPM.

In fact, I would ask the executive director: Did OPM not have a response to some of the portions of that report?

Ms. Myers. Yes; in fact, OPM indicated as a result of some of the findings and recommendations in the report that they would be issuing additional guidance to the agencies on appropriate use of the temporary appointing authority.

Senator DeConcini. Have they done that?

Ms. Myers. To my knowledge, it has not yet been issued. OPM indicated that they intend to do at least two things in that area.

Senator DeConcini. I just find it awfully strange, due to the administration's strong opposition to the Hatch Act reform because this would politicize the Federal work force, that OPM rejects the merit principles and uses the temporary authority to the vast numbers that it has.

Though you can't direct them, we sure hope you attempt to coerce them or bring to their attention what I consider to be a real contradiction.

DIFFERENCES BETWEEN APPOINTMENT AUTHORITIES

Mr. Levinson. I would only add that I think it is important to keep in mind the differences between the temporary appointment authority and the use of schedule B as a replacement for the PACE that, as you know, was abolished some years ago.

In our report on the temporary hiring authority, while we have identified some potential weaknesses with the program, on balance, we believe that it permits some very important flexibility to the executive branch.

I would go so far as to say that that report, in its tenor, is more positive than our separate evaluation of the continued use of schedule B as a replacement for competitive examinations.

Senator DeConcini. How do you respond to this quote, maybe it is out of context: "Increased the civil service system's vulnerability to violation of the merit system principles?"

That is pretty strong language from the report that would contradict the flexibility argument that you make, would it not?

Mr. LEVINSON. In both cases—the use of schedule B and the greater flexibility of temporary hiring—you have the potential to go around our competitive merit based procedures. Whereas, the use of the schedule B is a direct replacement for what had previously been merit based competitive hiring.

Senator DECONCINI. When you see these extended appointments going up to 4 years and beyond, it represents a 100-percent increase compared to what it ws before this administration started doing this. It seems to me that these extended appointments would be of the greatest concern to your trust and obligation responsibility to call attention to this practice, and maybe you do. However, you can't tell the administration to change its practice, and I just hope that you meet that.

I have no evidence that you haven't through the senior staff meetings, but it seems to me a bad precedent from the standpoint of the merit systems, just from my observation. I can't speak with any great authority because I am not on top of it like you are, maybe you feel like we are on top of it and all these schedule B appointments are done on the flexibility needs and are very attuned to each agency, but I just hope that is the case.

I am worried, when you read this strong language from this report, that someone thinks otherwise.

WORKLOAD AND BUDGET REQUEST

I am going to go to another area. Mr. Levinson.

In your budget justification, you indicate that the Board's reduced budget request is justified, in part, because the workload will remain relatively stable over the next 2 years. I think that is on page 5.

Yet, on the very next page of your justifications, you paint a much different picture about your possible workload. You say that drug testing and treatment programs, the AIDS Program and the new FERS program will produce new and complex issues, and require more time devoted to research and analysis than the typical cases.

It sounds to me like those two statements contradict each-other. What makes you so sure that the Board is going to be able to do its workload with all these complex new matters and issues with a cut of $500,000?

Mr. LEVINSON. To be candid, we cannot know for certain whether we can. The quote on page 5 is based on our sense now that-because the case load has remained as stable as it has over the past several years that it would not be appropriate to come to you and seek an increase in our budget when, in fact, I think we can show—based on our performance in the last several years—that given the number of cases we have and these kinds of budget numbers that we can adequately and properly perform our function.

Noting some of the issues on the horizon, as we do on page 6, is to furnish notice to you that there are some potential complications for the Board and for its case processing, but at this point we really haven't experienced an increase in our case load as a result of these issues, and we honestly cannot tell you what kind of increase we may experience as a result.

In light of that and the fact that we have substantially increased our ability to settle, we think there is a very good prospect for being able to digest some of these new issues and handle them properly without an increase in our budget.

CASE BACKLOG

Senator DECONCINI. Neither your statement nor your justifications make much, if any, mention of your case backlog, yet one of the complaints that we hear often is that it takes an inordinate amount of time to move cases through the Board and that your backlog of cases is too high.

Since you do not go into much detail in your presentation, can you tell us about your backlog of cases in fiscal year 1988 and what steps, if any, the Board will take next year to reduce the backlog and cut the time back to decide cases pending before your Board?

Mr. LEVINSON. I will divide my answer, Mr. Chairman, between the case processing that occurs on the employee appeals side of our work, that is the greatest bulk of our workload, and the original jurisdiction cases that comprise only a very small fraction of our workload.

On the employee appeals side, it takes on average 75 days only for an appeal to be heard and for an initial decision to be issued at a regional office. In the typical case, more than one-half of the time those cases will go final at the regional office.

Senator DECONCINI. What percentage is that?

Mr. LEVINSON. More than half the time.

In terms of merit based cases, only about one-third of those cases are appealed to the full Board in Washington, so the typical case is heard and resolved with finality, with enforceability, within 2 to 3 months.

As far as cases that do come to the Board, as you may expect, those cases would be the more complex ones and, obviously, those cases require three adjudicators and not one, we have an average of 149 days. That is up from the previous fiscal year, but I think that reflects, in part, on some of the difficult issues that the Board is facing.

Senator DECONCINI. How many cases do you have in that category? What was your backlog number in fiscal year 1988, do you know?

Mr. LEVINSON. We have approximately 1,000 cases pending at the Board now.

Senator DECONCINI. That is all of them.

Mr. LEVINSON. That would be all cases that were filed in the Washington headquarters.

Senator DECONCINI. Can you give us, later perhaps, how many have been over 149 days?

Mr. LEVINSON. Yes; I am sure we can you furnish you that information.

Senator DECONCINI. If you could send that to us, I would just like an analysis of how long your backlog is and how many fall outside of this average?

Mr. LEVINSON. We can certainly do that, and we shall.

Senator DECONCINI. Thank you.

ORIGINAL JURISDICTION CASES

Mr. LEVINSON. The case processing has been longer on the original jurisdiction side of the ledger.

Senator DECONCINI. What percent of those cases?

Mr. LEVINSON. Comprise the Board workload?

Senator DECONCINI. Yes.

Mr. LEVINSON. A very small fraction, as I mentioned earlier; we have about 1,300 cases in fiscal year 1987 on the employee appeals side, and we only had about 15 cases coming from the original jurisdiction side, that would include whistleblower cases, Hatch Act cases, cases concerning senior executives, and proposed actions against administrative law judges.

So, it is a very small fraction of the volume.

Senator DECONCINI. They obviously take longer.

Mr. LEVINSON. They do.

Senator DECONCINI. What is the average of those, do you know or do you want to supply that for us?

Mr. LEVINSON. We can't furnish an average for you now, but we will furnish those numbers later.

Senator DECONCINI. Thank you.

Ms. Wieseman, I am going to put you on the spot and ask you to answer a few questions about how the Merit Systems Protection Board is doing in handling Office of the Special Counsel cases.

How many cases filed by the Office of the Special Counsel are pending before the Merit Systems Protection Board?

Ms. WIESEMAN. There are currently seven. Up until 2 days ago, there had been eight and I am happy to report that 2 days ago the Board decided a case that we had filed in 1985—the first religious discrimination case seeking discipline of Federal employees—and the Board upheld the finding of discrimination and the discipline of the admininistrative law judge. That case came out 2 days ago.

Senator DECONCINI. How long did that take, 3 years?

Ms. WIESEMAN. A little over 2 years.

Senator DECONCINI. Can you tell us how many cases you have pending longer than the Board's self-imposed 110 days average?

Ms. WIESEMAN. Out of the remaining seven, I think six of them have.

Senator DECONCINI. Are they 2 and 3 years too?

Ms. WIESEMAN. No; they are between 9 and 10 months and down to 3 or 4 months.

Excuse me, there is one that is a little over a year.

Senator DECONCINI. I understand that your original request to OMB was about $5,039,000 and an additional 10 positions. OMB cut your dollars to $4,761,000—cut it by $278,000—and told you that you could have the 10 additional slots, but over a 2-year period.

In short, you got five new slots this year and a promise of another five next year, but without the money to pay for them. Is that essentially what happened?

Ms. WIESEMAN. That is correct, Mr. Chairman.

Historically, the Office of the Special Counsel had been at a FTE level of 86 personnel, since fiscal year 1983 until fiscal year 1986 we were reduced to 84 and then this past year to 76.

We had requested that our FTE be put back up to the 86, because as I testified about the deleterious effect that the reduction in personnel has had on our case processing capability and that we are giving additional scrutiny, very close scrutiny, particularly, to whistleblower disclosure reprisal cases, putting more time in them with fewer personnel our timeframes have gotten to what I think are not acceptable timeframes.

In our request to OMB they did recognize this problem that we have and did allow us five additional FTE's for fiscal year 1988 in the President's budget, but put off the other five, which would bring us back up to 86, until fiscal year 1989.

Senator DECONCINI. What would you do with these five you are going to get?

Ms. WIESEMAN. We are going to put them right to work in complaints examining unit; three of them, one attorney and an additional investigator. The complaints examining unit, which is the unit that reviews cases initially, is where we have had a significant backlog and, of course, that backlogs the entire office.

Senator DECONCINI. We think of your office so often, as you mentioned, for protecting whistleblowers, but you also serve as a safe channel for disclosure of information alleging waste, fraud, and abuse within the Federal agencies.

With the deficit growing steadily beyond the bounds of the Gramm-Rudman-Hollings targets, we can use all the information and help that we can get here regarding abuse in Federal agencies.

Can you tell us what specific evidence of waste, fraud, and abuse have been brought to your attention over the last year or year-and-a-half, and tell us about the agencies involved and tell us if there is information that we can use in making savings?

Ms. WIESEMAN. As you know, Senator, when we receive a final report from an agency, we do provide it to the President, the House and Congress.

With regard to this year, I think a significant case that we had involved the Department of Health and Human Services, and concerns an allegation by a scientist concerning the testing of animals for medications that are utilized by veterinarians and their potential carcinogenic effect in animals who are used for food for human consumption.

We sent the allegations over to the Secretary of Health and Human Services and the Secretary convened a commission to review the entire process. The commission worked for several months, made some significant recommendations as to how the process could be improved, and we were sent that report. We sent the report to Congress, of course. We are awaiting, currently, the final closeout on that, which is: which recommendations of this commission that was set-up by HHS will in fact be implemented, but I think that was very significant.

Although it doesn't involve dollars, it certainly does involve human safety and health. I think that may be one of the most significant we have this year.

Senator DeConcini. Have you come across any dollar ones?

Ms. Wieseman. I can't think of a significant dollar one this year. We have had significant dollar cases in the past involving the Defense Department, primarily, but for this past year I can provide it for the record, but I can't think of any significant dollar ones that we have had this year.

Senator DeConcini. Could you give us a summary for the last 2 years, even before your tenure there?

Ms. Wieseman. Certainly, I would be happy to.

Senator DeConcini. I have no further questions.

Senator Domenici?

Senator Domenici. First let me apologize for being late, Mr. Chairman.

Senator DeConcini. I was late myself.

Senator Domenici. We had a vote in the budget and I left Senator Chiles and I told him that he could think about long-term defense, 20-year defense, and that he had better do this.

Senator DeConcini. You have your priorities right.

Senator Domenici. Let me ask a question with reference to saving money in the Government due to the elimination of waste, fraud, and abuse.

It has come to my attention recently and I don't know if our chairman is aware of the Defense Department's approach to finding savings and then granting awards and incentives to those who found them.

Are you aware of that program?

Ms. Wieseman. Yes; I am.

Senator Domenici. I was absolutely startled at this year's ceremony where five or six military and civilian people were granted awards and some stipends. I think the sum total of savings from just that one meeting was somewhere around $250 million. One man found $144 million in savings by urging that we not redo something that they already had, but just modify it.

Do I gather that there is no real correlation between what you do and what other departments are doing, that you have a different role?

Ms. Wieseman. That is correct, Senator. What we are is a channel through which an employee who does not wish to go, for instance, to his agency's inspector general, or within the department, who wishes to make, anonymously, a request or a statement with respect to fraud, waste, and mismanagement.

They can come to us, and our statute provides that, if we find a substantial likelihood that the information they have given us evidences waste, fraud, and mismanagement, we can require the head of the agency to conduct an investigation and to issue a report.

Many times, also, the reason that an employee may come to us is to retain confidentiality. Another reason might be that he has brought it to the attention of his own agency, and he or she believes that nothing has happened. They can come to us, and we can cause an investigation to occur if we find that substantial likelihood that the evidence that has been presented evidences fraud, waste, and abuse. So it is a two-channel.

Senator DOMENICI. Might I ask, since I am really not very familiar with how effective the Office of Special Counsel is in that one function, unless the chairman objects, I personally would like a little summary.

Did you ask for a summary of how effective this mechanism has been?

Senator DECONCINI. Yes; I asked for some specific cases.

Senator DOMENICI. I wonder if you could just give us a summary of a couple of years.

Senator DECONCINI. I would like to see that, too.

Senator DOMENICI. I wonder if it is very effective and needed. I assume that we have to have something where the privacy is there. We are finding that much bigger savings are occurring on the voluntary incentive side, unless I am reading that wrong.

Ms. WIESEMAN. We complement that, Senator. We wouldn't presume to want to take over that function. I have been an inspector general myself, and I know how important it is to receive from agency personnel the information that you receive.

What we are is another channel that an employee may use and do, in fact, use, either when they are not effective within their agency in getting anything done, or they want to maintain their confidentiality even more so than through the inspector general who would retain the confidentiality also.

I think that it is too bad that more employees don't utilize it. They may not know about the channel. I think it could be a lot more effective and we are trying, through our statements, speeches, and contact with Federal agencies and employees to let them know that we are available for that purpose.

Senator DOMENICI. Could I just ask one question. Have you indicated what the Board will estimate it will spend on adjudicating appeals of OPM retirement decisions in 1988?

Mr. LEVINSON. Senator, I don't think we have a final figure to share with you. We have a good faith estimate of $1.3 million for 1988.

Senator DOMENICI. I have no further questions, Mr. Chairman.

Senator DECONCINI. Thank you, Senator Domenici.

ADDITIONAL COMMITTEE QUESTIONS

Thank you very much for your testimony. We appreciate your waiting for us this morning. We thank you for the information that you are going to submit to us. We have further questions that we will be giving to you. Thank you, Mr. Levinson, and thank you, Ms. Wieseman.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

MERIT SYSTEMS PROTECTION BOARD

ADDITIONAL COMMITTEE QUESTIONS

BUDGET REQUEST

Question: What was your original request to OMB for FY 1989? Where did they cut back your request? What would you have been able to do with the additional money and staff that OMB denied you?

Answer: The Board requested 337 FTE, $21,535,000 in appropriated funds, and $1,600,000 in reimbursable authority for expenses to adjudicate retirement appeals. OMB reduced the FTE by eight, the appropriated funds by $1,047,000, and the reimbursable authority for expenses to adjudicate retirement cases by $200,000.

Over the past few years, the number of appeals filed with the Board has stabilized and the rate of settlement of cases has increased. The Board has become more efficient through enhancement of its ADP capability and other management improvements. These factors have contributed to our reduction in FTE in recent years, and we believe we can also absorb the reduction of eight FTE for FY 1989.

The reduction in appropriated funds is almost entirely the result of the reduction of eight FTE and the re-estimate by OMB of the Governmentwide costs of FERS. (The Board's current experience is consistent with OMB's revised estimate that only 5 percent of eligible employees will switch to FERS.) The approved request for FY 1989 provides the full cost of the January 1988 pay raise but none of the cost of the January 1989 pay raise. Depending on FY 1989 workload, this additional cost could be difficult to absorb. Other adjustments to the request for appropriated funds were, in general, small and technical.

The reduction of $200,000 in expenses to adjudicate retirement appeals reflects the Board's revised estimate of what its actual costs will be in FY 1989. We are requesting an increase in the limitation on reimbursements from $1.2 million to $1.4 million to cover the anticipated cost.

MERIT SYSTEMS STUDIES

Question (from Senator DeConcini): The Office of Policy and Evaluation is responsible for conducting special studies of the civil service and other merit systems and conducting an annual review of the actions of OPM. Although I think these studies may be important, I am not sure that most Federal workers involved in litigation before the Board think they are more important than handling their cases fast and fairly. In these lean budget times, it would seem to me that you would want to put more of your resources into the legal and appeals aspects of the Board's operations and less into studies. How much will you spend in the Office of Policy and Evaluation in FY 1989? How does that compare to last year? Why doesn't it make sense to put more of these dollars into the nuts and bolts "legal work" of the Board?

Answer: The Board has not yet determined the allocation of its FY 1989 budget; however, we would expect it to be similar to the allocation for FY 1988. In FY 1988 we expect to spend about $976,000 in the Office of Policy and Evaluation (OPE), including salaries, benefits, travel, printing, and other expenses. This amount represents less than 5 percent of the total funds appropriated for the agency for FY 1988.

The Board's studies function is carried out in fulfillment of its statutory obligations. First, under 5 U.S.C. § 1205(a)(3) the Board is required to "conduct, from time to time, special studies in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected." Second, under 5 U.S.C. § 1209(b) the Board is required to "submit an annual report to the President and Congress *** [which] shall also review the significant actions of the Office of Personnel Management, including an analysis of whether the actions of the Office of Personnel Management are in accord with merit system principles and free from prohibited personnel practices." A review of the legislative history of the CSRA makes it clear that Congress considered this review and oversight responsibility an essential element of the system of "checks and balances" established by the Act.

The Board's studies are of benefit to the Government and may well have saved the Government more money than they have cost. Several of the studies of OPM "significant actions" have focused on events or developments that had the potential to impact negatively on the quality of the Federal workforce. The Board has carried out major studies of the incidence and impact (including cost) of two prohibited personnel practices -- sexual harassment and reprisal for "whistleblowing" -- that are of particular concern to Congress and the Executive Branch. Increasingly, other Federal agencies and organizations are using the results of the Board's studies and, therefore, not devoting resources to work that would duplicate (perhaps several times over if done by several agencies) work done by the Board.

The Board is committed to the effective fulfillment of its statutory mission both in the area of adjudicating Federal employee appeals and in the area of merit system studies. We do not feel that approximately 5 percent of our resources is too much to devote to the studies function, nor do we believe that the legal and appeals aspects of the Board's operations are suffering because of the small percentage of our funds devoted to the fulfillment of our statutory studies function.

IMPACT OF NEW LEGISLATION

Question (from Senator DeConcini): On page 8 of your justification you indicate that enactment of any new legislation affecting the Board's mission is not contemplated in your FY 1989 budget. Implicit in that statement is that enactment of the Whistleblower Protection Act, Civil Service Due Process Amendments, and other new laws would require more money for the Board. What is your strategy for dealing with enactment of one or more new civil service-type laws this calendar year (a fairly good possibility) within your current FY 1989 budget request? Supplemental request from the President? Eat the additional cost? What is your estimate of the cost to the Board if the Whistleblower Act is enacted this year? Give us the price tags on any other pending legislation that could affect your resource requirements, for the Record. What effect will the Hatch Political Activities Act have on your budget if enacted this year?

TRAVEL AND OVERHEAD EXPENSES

Question: The FY 1988 Congressional Budget Resolution and this Committee both came out strongly in favor of deep cuts in agency travel in FY 1988. In crafting your budget for last year, the Committee proposed a cut of about $94,000 or 13% in travel. Yet your justifications show that travel at the Board increased by 50% over FY 1987 and increases by $24,000 next year. Why haven't you been able to comply with the Committee's directives to cut travel? The committee also mandated cuts in administrative costs and overhead items. Part of that was FERS. What steps have you taken to reduce overhead costs at the Board?

Answer: The estimate for travel expenses for FY 1988 contained in this justification is $620,000, which is equal to the amount requested in the FY 1988 justification submitted to Congress last year. The increase over FY 1987 is the result of both the change in GSA travel regulations which increased the per diem allowed for official travel and the increase in air fares over the past year.

The $24,000 increase requested for FY 1989 is to cover the cost of inflation which OMB has estimated will be 3.8 percent. There are indications that travel cost inflation may be higher since a number of airlines have been raising their contract rates over the past several months.

The vast majority of the Board's travel is mandated by the requirement to travel to designated hearing sites to hold hearings on employee appeals. If the Board were required to cut back on this travel, the total travel cost to the Government would increase since agencies usually have several employees who need to travel to the hearing, while the Board has only the administrative judge.

The Board has limited its request for travel funds as required by the Continuing Resolution. We will make every effort to reduce actual travel expenses, as recommended by the Senate Committee, through increased settlements and by grouping hearings in nearby locations into single trips for our administrative judges. (However, enactment of the Civil Service Due Process Amendments Act would increase our travel costs, as described above.)

The Board's costs for FERS will be less in FY 1988 than was estimated in the justification and approved by Congress. The FY 1989 justification has decreased the estimate in accordance with OMB estimates and actual experience over the last several months. The Board has a number of initiatives underway to reduce overhead expenses. Among them are the purchase of equipment that was formerly leased, where purchase will save the Government money over several years, and the review of telephone services to identify areas where savings can be achieved.

CASE PROCESSING TIMES

Question (from Senator DeConcini): You have indicated that the Board's average processing time for deciding petitions for review is 149 days. How many cases pending before the Board are more than 149 days old?

Question (from Senator DeConcini): What is the Board's average processing time for original jurisdiction cases?

Answer: The average processing time for original jurisdiction cases closed in FY 1987 was 412 days. This average is based on 4 Hatch Act cases, 4 other Special Counsel disciplinary actions, 1 Special Counsel stay request, 3 actions against Administrative Law Judges, 1 regulation review, and 2 informal hearings in SES removal cases. It does not include the second, related decision in one Hatch Act case or the related motions to the stay request, nor does it include any addendum cases (attorney fees and remands).

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

BUDGET REQUEST

Question: The budget justification indicates that the Board spent $1.3 million on adjudicating appeals of OPM retirement decisions in FY 1987 and expects to spend about $1.4 million in FY 1989. The limitation on reimbursements from the Civil Service Retirement and Disability Trust Fund to cover these costs was $1.2 million for FY 1987. You say that the Board's actual costs of processing retirement appeals in FY 1987 was $100 [thousand] above the limitation. Did the Board expend this additional amount from its salaries and expense appropriation? What does the Board estimate it will spend on adjudicating appeals of OPM retirement decisions in FY 1988?

Answer: The excess cost of processing retirement appeals was absorbed by our appropriated funds in FY 1987. The Board estimates that it will spend $1.3 million in FY 1988 to adjudicate retirement appeals. If the increase is not granted in FY 1989, we will again have to absorb the excess costs from the appropriated funds.

Question: The Board's FY 1989 request proposes a reduction of eight full-time equivalent (FTE) positions below FY 1988. I note that these eight positions are to be taken from the Board's case decision and program management activities. Specifically out of which offices do you propose to take these position reductions?

Answer: At this time our plans are to absorb the reduction in the Headquarters support offices, with no individual office taking the full reduction. The offices affected will be Administration, Management, Clerk, and Legislative Counsel. The Board will be able to accommodate the reduction by increasing use of computers and greater general efficiency. If new legislation (e.g., Civil Service Due Process Amendments Act, Whistleblower Protection Act) is enacted, or a major outside event (such as the Air Traffic Controllers' strike) occurs, then the Board would need additional staff.

MERIT SYSTEMS STUDIES

Question (from Senator Domenici): The Board's Office of Policy and Evaluation conducts special studies. What is the current staffing level of this office and the special studies unit? What special studies are now underway? Who are the major users of these studies? How does the Board determine the number of special studies it undertakes and the areas for study?

Answer: The Office of Policy and Evaluation (the Board's special studies unit) is curently using 15 and 1/2 FTE, less than 5 percent of the Board's FTE allocation. This number includes two secretaries and one technical assistant.

The following studies are either in the final stages within OPE or have been completed and are now being printed. All will be issued in the next few months.

"Federal Personnel Policies and Practices: Perspectives from the Workplace" - An overview of the findings of the Board's 1986 Merit Principles Survey of over 21,000 Federal employees.

"Toward Effective Performance Management in the Federal Government" (an OPM significant action report) - A study of Federal performance management.

"Sexual Harassment in the Federal Government: A 1988 Update" - An update of the Board's 1981 study of the incidence and impact of sexual harassment in the Federal Government. Based on a 1987 survey of Federal employees.

"Attracting Quality Graduates to the Federal Service: A View of College Recruiting" - A study of Federal Government recruiting of college graduates, based on a review of selected college curriculums and a survey of college deans and placement officials.

During FY 1988, The Board will initiate a number of new studies which will, in most cases, continue into FY 1989. Some of the topics to be covered include:

"A Review of OPM's Significant Actions During FY 1987-88" (A series of reports on various OPM significant actions in fulfillment of MSPB's annual reporting requirement)

"The Selection of First Line Supervisors in the Federal Government"

"Who Is Leaving the Federal Government and Why Are They Doing So?"

"A Review of the Operations of Merit System Related Programs and Procedures in a Non-Title 5 Agency" (Tennessee Valley Authority)

A series of reports on "The Impact of the Civil Service Reform Act: 10 Years Later" including:

- "What Price Simplicity?--A Study of OPM and Agency Initiatives to Free Managers from Overly Prescriptive Personnel Rules"
- "A Retrospective Review of the Significant Actions of the Office of Personnel Management: FY 1978-1988" (Part of MSPB's Review of the Significant Actions of OPM)
- "A Survey of Former Members of the Senior Executive Service"
- "A Survey of Senior and Full Performance Level Personnel Officials Throughout Government to Solicit Their Opinions and Experiences on a Wide Variety of Civil Service Issues"

By statute, the primary audience for the Board's special study reports are the President and the Congress. However, there is also a sizable secondary audience made up of Federal agency personnel, public interest groups, academicians, Federal employee unions, and others (including some state and local government officials). Federal agency heads and directors of personnel, as well as the media, are included on the Board's standard report distribution list. We also make reports available, upon request, to other interested parties. We typically receive over 1,000 requests for copies of a newly released report. Depending on the subject matter and the media attention provided to a study, the requests may be several thousand in number for some reports.

Since there are many possible topics appropriate for study within the Board's statutory mandate, the actual number undertaken reflects the resources available. Potential study topics are prioritized, and we do as many as we can with the resources available.

Selection of topics begins with a prioritized list of recommended studies from the Office of Policy and Evaluation. Agreement is then reached with the Chairman and Executive Director as to which studies have the greatest potential for impact and which topics are most in need of study. The agreed upon studies form the Board's special studies agenda.

The Board's annual review of the significant actions of OPM is, of course, mandated by the CSRA. The topics or programs to be reviewed are based on consensus as to which actions are most significant.

In recommending topics for study and selecting OPM actions for review, the Board actively solicits and considers input from individuals and organizations outside the Board. This may include issuance of a Federal Register notice announcing a new study and requesting comment, and requests for information and/or opinions directed to agency heads, directors of personnel, unions, and public interest groups.

IMPACT OF NEW LEGISLATION

Question (from Senator Domenici): You mention that the Board's workload could increase significantly if legislation such as the Whistleblower Protection Act or the Civil Service Due Process Amendments Act are enacted. What is your rough estimate of the additional resources the Board would require if either of these two measures were enacted?

Answer: The Board would make every effort to absorb the initial additional costs brought about by enactment of any of these bills out of the current request. However, because the impact of some provisions could be so substantial, and because a backlog in cases at the Board causes additional cost and disruption to individual agency operations, we would consider making a supplemental request if it appears necessary.

Several provisions of these bills would result in an increased number of appeals coming to the Board and, thus, would increase the Board's costs. Other provisions would also result in increased costs.

The impact of the Whistleblower Protection Act will depend on which version of the bill is enacted. In its broadest form (H.R. 25), the estimated impact is that the Board would need to double its staff and budget. We estimate that provisions relating to complaints alleging reprisal for whistleblowing would bring an additional 1,500 appeals to the Board annually. Because of the complexity of these cases, it is difficult to estimate what the cost impact would be, but it would be substantial. Additionally, the independent right of action provision of the bill, in its broadest form, would cause a large number of cases, composed primarily of EEO matters, to gravitate to the Board because of its enlarged jurisdiction.

We estimate that the provision of the Civil Service Due Process Amendments Act extending appeal rights to excepted service employees would produce an additional 400 to 500 appeals annually. The provision requiring our administrative judges to hold hearings at work sites would increase our travel costs, as well as our costs for recording hearings since court reporters would spend more time travelling to and from hearing sites. In addition, the administrative judges would spend more time travelling and, therefore, would not be able to handle as many cases; this could result in a need for more administrative judges. Finally, the provision of the bill requiring the Board to be the named respondent in proceedings involving judicial review of its decisions would increase the active litigation workload significantly and could require additional staff in the Office of the General Counsel. We estimate that the combined result of these provisions would be that the Board would require an additional 15 to 20 FTE and an additional $1 to 1.5 million in appropriated funds.

We expect that the Hatch Act revision would increase the number of Special Counsel complaints alleging violation of the Hatch Act that are brought to the Board. Depending on the number of such cases, the Board might need additional staff.

CASE PROCESSING TIMES

Question (from Senator Domenici): What is the Board's current case backlog? How many of these cases have been pending for more than 150 days? Why?

Answer: As of March 28, 1988, there were 1,051 appellate cases (petitions for review, addendum cases, reopenings, etc.) pending before the Board. Of this total, 637 had been pending for more than 110 days and 533 for more than 150 days. These numbers include 854 pending PFR's, of which 468 had been pending for more than 110 days and 372 for more than 150 days. The Board's self-imposed time standard for deciding PFR's is 110 days; therefore, the PFR's pending for more than 110 days are considered the "backlog."

Question (from Senator Domenici): How long is it taking the Board, on average, to act on original jurisdiction cases?

Answer: The average processing time for original jurisdiction cases closed in FY 1987 was 412 days. This average is based on 4 Hatch Act cases, 4 other Special Counsel disciplinary actions, 1 Special Counsel stay request, 3 actions against Administrative Law Judges, 1 regulation review, and 2 informal hearings in SES removal cases. It does not include the second, related decision in one Hatch Act case or the related motions to the stay request, nor does it include any addendum cases (attorney fees and remands).

Question: Is it taking longer to act on corrective action or disciplinary action cases brought by the Special Counsel than it is on actions brought by the agencies themselves. If so, why?

Answer: The average processing time for the eight Special Counsel disciplinary action cases (including four Hatch Act cases) closed in FY 1987 was 502 days.

There were no Special Counsel corrective action cases last fiscal year.

The average processing time for these cases was 90 days longer than the average for all original jurisdiction cases (which included a Special Counsel stay request, actions against administrative law judges, a regulation review, and informal hearings in SES removal cases).

For appellate jurisdiction cases closed in FY 1987, the average processing time was 75 days for initial appeals and 149 days for petitions for review (which may be filed by either agencies or appellants). Petitions for review must be filed within 30 days of the date of the initial decision. Thus, the average processing time from the filing of an initial appeal to the issuance of a final Board decision on a petition for review of the initial decision on the appeal would be about 250 days.

Special Counsel disciplinary actions usually involve complex legal issues which require considerable time for analysis.

Question: Your justification indicates that the Board has a self-imposed time limit of 120 days for issuing regional office decisions, but there are no established time limits for issuance of final decisions by the Board in original jurisdiction cases. Why is this?

Answer: New processing standards were announced March 14, 1988 for those original jurisdiction cases filed by the Special Counsel. These call for the Board's Office of General Counsel (OGC) to draft a decision and forward it to the Board within 60 calendar days of OGC receipt of the case. Special Counsel cases will be routed to the three members of the Board for simultaneous voting. Within seven calendar days of issuing a draft decision, the OGC supervisory attorney and staff attorney assigned to the case will brief the Executive Assistants to the members of the Board on the issues involved in the case.

If no decision is issued within 45 calendar days of the date the draft decision is received by the Board members from OGC, a Sunshine Act Meeting will be scheduled at the earliest practicable date. The OGC will notify the Chairman's office when the 45 day calendar period has expired, and the Chairman's office will coordinate the scheduling of the Sunshine Act meeting with the other Board members.

OFFICE OF THE SPECIAL COUNSEL

ADDITIONAL COMMITTEE QUESTIONS

Question No. 1 (appropriations hearing): Whistleblower Disclosures

Q: In the last two years, how much money was recovered as a result of whistleblower complaints to the Office of the Special Counsel?

A. In Fiscal Years 1987 and 1988 (to March 31), the Office of the Special Counsel received 19 reports from agencies in response to allegations transmitted pursuant to 5 U.S.C. § 1206(b)(3) and (4); 55 reports were received in response to allegations transmitted pursuant to 5 U.S.C. § 1206(b)(2) and (7) for the same period. In no instance did an agency provide a dollar amount for savings or potential savings in a report. In addition, it is not possible to estimate savings from information provided in the reports. We can, however, give some examples of the type of savings and potential savings to be realized by corrective actions taken as a result of these investigations.

In the 19 reports filed in response to 5 U.S.C. § 1206(b)(3) and (4), at least 5 give some indication of dollar savings. Some of the more prominent examples are:

- In one case, funds not properly utilized were collected from a former researcher with the VA; in addition controls over research funding were tightened.
- The Secretary of the Navy determined that liability for design errors in the construction of an Electrical Power Substation would be pursued with a contractor wherever the correction of errors resulted in increased costs; a complete study of the design review process was ordered to avert future problems.
- One very comprehensive report from the Secretary of the Air Force discussed numerous actions taken to deal with the removal of asbestos at an aging Air Force Base. The financial impact of this occupational health issue was discussed in terms of training, use of protective equipment, following proper procedures and the various costs of lost time, physical examinations for employees and their family members and Workmens' Compensation claims.

Of the 55 reports received in response to allegations transmitted pursuant to 5 U.S.C. § 1206(b)(2) and (7), about 13 speak to corrective actions that could result in dollar savings.

- An audit of inventory control procedures at the Army Training Support Center resulted in improvements that can be expected to save some of their $160,000 printing budget.
- Numerous cases involve violations of time and attendance regulations, misuse of overtime, misuse of government vehicles and equipment, performance of personal business on government time and/or equipment, and misuse of government telephone systems. These often result in the collection of money from offending employees and the tightening of procedures to prevent recurrences.

Question No. 2 (post-hearing): Exemption from Travel and Overhead Cuts

Q: As you know, this Committee recommended the full President's request for the Office of the Special Counsel last year and exempted your agency from cuts in travel and other administrative overhead cuts. The

Committee directed you to apply any savings that could be realized in the Office, from lower FERS contribution requirements or other savings, to the absorption of the January, 2-percent pay raise.

Will you be able to pay the full cost of the 2-percent pay raise out of your fiscal 1988 budget without disrupting OSC programs and, if so, where were you able to achieve the savings to pay for it? Be specific.

A: Yes. The cost of the FY 88 pay raise will be covered from savings realized from costs associated with salary lapses for positions not being filled due to the time factors related to the recruiting and selection process. The cost of the FY 88 pay raise is $44,896.

Question No. 3 (post-hearing): Savings from Salary Lapses

Q: On page 3 of your justifications you show savings in fiscal year 1989 of $159,000 due to "savings from salary lapses."

Can you explain this item and how you were able to realize this level of savings below your fiscal 1988 requirements?

A: The amount of $159,000 represents projected savings to be realized from costs associated with the increase of five positions for FY 89 (assuming this increase in FTE is granted) and from vacancies occurring during the year due to attrition which we anticipate will be achieved through adjustment of time for the filling of positions. We are projecting that the adjustment of time for filling positions based on an average of 3 to 6 months will achieve savings of $94,000 associated with the increase of five positions and savings of $65,000 associated with other salary lapses.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

Question No. 4 (Senator Domenici): Impact of Additional Staff on Workload

Q: You mention that in Fiscal Year 1988, you expect to complete 80 percent of the total workload. What percent of the total workload would you expect to complete in Fiscal Year 1989 with the additional resources requested?

A: Based on actual figures for the first half of fiscal 1988, current staffing plans and the increased scrutiny given to reprisal for whistleblowing allegations, it now appears that OSC will be able to complete only about 73 percent of its total projected FY 88 workload, or 1,310 of 1,803 matters (469 carryover and 1,334 new matters). For FY 89, with a projected carryover of 493 matters, and a 5 percent increase in receipts, or 1,401 matters, the anticipated workload is 1,894 matters. With an increase of five staff years during FY 89, we would expect to complete between 1,365 and 1,390 matters, or from 72 to 73 percent of the total workload.

Question No. 5 (Senator Domenici): Impact of Additional Staff on Backlog

Q: You currently are experiencing an increasing case backlog, as evidenced by the deterioration in processing statistics for the first quarter of Fiscal Year 1988 you cited in your statement. As a result, I take it that you are looking at an increasing case backload by the end of Fiscal Year 1988 while you are also projecting a 5 percent increase in your total workload in fiscal year 1989. Will the additional 5 full-time permanent positions requested for Fiscal Year 1989 enable you to reduce the case backup as well as keep up with the projected increase in the workload?

A: The additional five full-time permanent positions requested for Fiscal Year 1989 should permit the office to remain relatively current on its workload. At the end of Fiscal Year 1987, the office carried over 469 matters. Based on mid-year figures, it appears we will have 493 matters on hand at the end of fiscal year 1988. By processing 73 percent of the total fiscal 1989 workload, the office would be able to process 1,390 of 1,894 matters, which would result in a carryover of 504 matters, a 2.2 percent increase over this year's projection. Increased resources for fiscal 1990 should reduce the carryover to about 450 by the end of that year.

Question No. 6 (Senator Domenici): Pending OSC Cases

Q: How many cases brought by the Office of the Special Counsel are currently pending before the Merit Systems Protection Board? What is the age of these cases?

A: Information regarding litigation pending before the Merit Systems Protection Board (MSPB) is found in Attachment A. The ages of the cases shown are as of March 18, 1988. The list has been updated to reflect decisions we have received from the MSPB since that date.

Question No. 7 (Senator Domenici): Whistleblower Protection Act

Q: What would be the impact on the Office of the Special Counsel of enactment into law of the Whistleblower Protection Act? What additional resources would be required by the Office to handle this increased workload?

A: As originally introduced, S. 508 (the "Whistleblower Protection Act of 1987") would have a substantial effect on OSC resources, and upon administrative and judicial appeal processes generally. A new individual right of action created for federal employees could be exercised if the OSC did not seek corrective action within 60 days after employees filed a complaint with the office. The bill would require that the OSC begin investigations of all complaints of alleged prohibited personnel practices in 15 days, provide status reports to all complainants every 60 days, and send closure letters to complainants detailing all facts ascertained in every case. The OSC estimated (conservatively) that the new individual right of action, the OSC exhaustion requirement, and the procedural requirements and time limitations imposed on the OSC by S. 508, as originally introduced, would lead to a doubling of complaints to the OSC, and a need for at least an 39 FTEs and $2,400,000 to meet the demands of the proposed bill.

The revised version of S. 508 recently passed by the Committee on Governmental Affairs, significantly reduces the scope of the original bill, eliminates some (but not all) of the procedural requirements and eases some (but not all) of the time constraints on the OSC. For example, employees would only have to wait 90 days after making a complaint to the OSC before filing an appeal with the Merit Systems Protection Board (compared, for example, to the 180 days given to the Equal Employment Opportunity Commission before complaints may be removed to the judicial process). In addition, all complaints to the

OSC (between 1200-1500 per year) would have to be notified about actions taken on their complaints every 60 days.

The creation of a new individual right of action solely for complaints alleging reprisal for whistleblowing, and the 90-day exhaustion requirement, would still result in the need for additional staff to handle the expected doubling in complaints of reprisal. More staff would be required to meaningfully investigate and legally analyze these complaints within 90 days, and to continue to process complaints of the other 10 prohibited personnel practices without creating additional backlogs. The reduced scope of the bill (from the original version of S. 508 pending at the time this question was posed) would make OSC's personnel and budget requirements somewhat less than the estimates reported above. Precise estimates can be provided to the Committee on request. In the alternative, with the additional staff requested for FY 1989, the OSC could only assure completion of the initial processing of reprisal allegations within 90 days (i.e., the preliminary investigation undertaken by the Complaints Examining Unit); conversely, the OSC would be unable to do more than minimal investigative activity in most reprisal cases and would be unable to perform legal analyses of any investigative findings in the 90 days before which employees could appeal their cases to the Merit Systems Protection Board--a course of action that would, in our view, be a gross waste of resources and funds.

S. 508 under any configuration, can also be expected to have significant budgetary impact on the Merit Systems Protection Board and the Federal courts--a matter we are not in a position to address further.

Attachment A

OFFICE OF THE SPECIAL COUNSEL
LITIGATION PENDING BEFORE
MERIT SYSTEMS PROTECTION BOARD
AS OF MARCH 18, 1988

Original Jurisdiction Cases

Case Name	Date(s) of OSC Filing	Date of Initial ALJ Decision	Age (Since Initial ALJ Decision)	Age (Since OSC Filing)
Loney	10/17/85	05/28/86	660 days	894 days 1/
Cofield	12/17/85	04/22/86	696 days	894 days 2/
Nichols	06/18/86	01/16/87	427 days	636 days 3/
Purnell Johnson Fela	10/09/86	10/28/87	142 days	523 days
McBride	04/22/87	10/01/87	169 days	328 days 4/
Hicks	06/04/87	12/03/87	106 days	286 days 5/
Wingard	08/28/87	02/02/88	45 days	203 days
Tracy	12/11/87	Pending	- - -	98 days
Hendricks	03/10/88	Pending	- - -	8 days

Petitions for Review/ Interventions/Hatch Act Enforcement Actions

Case Name	Date(s) of OSC Filing	Date(s) of MSPB Action	Age (Since OSC Filing)
Hillen	06/13/86	11/23/87	116 days 6/
Charnock	05/01/87	- - -	322 days
Winkleman	02/25/88	- - -	32 days

1/ MSPB final decision issued 04/11/88.
2/ MSPB final decision issued 04/11/88.
3/ MSPB final decision issued 03/29/88.
4/ MSPB final decision issued 03/31/88.
5/ MSPB final decision issued 04/29/88.
6/ Pending final decision on underlying employee appeal.

FEDERAL LABOR RELATIONS AUTHORITY

STATEMENT OF JERRY C. CALHOUN, CHAIRMAN

ACCOMPANIED BY:

DENNIS M. DEVANEY, ACTING GENERAL COUNSEL
HOWARD W. SOLOMON, EXECUTIVE DIRECTOR OF THE FEDERAL SERVICE IMPASSES PANEL, REPRESENTING CHAIRMAN ROY M. BREWER
CLYDE B. BLANDFORD, JR., ACTING EXECUTIVE DIRECTOR
GEORGE B. BAILY, JR., DIRECTOR, OFFICE OF FINANCIAL AND PROGRAM ANALYSIS

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. Our next witness will be Mr. Jerry Calhoun, Chairman of the Federal Labor Relations Authority [FLRA]. He will be accompanied to the witness table by a newcomer to the agency but no stranger to this subcommittee, Mr. Dennis Devaney, Acting General Counsel and former member of the Merit System Protection Board.

Mr. Calhoun, do you want to go ahead and just summarize your statement?

Mr. CALHOUN. First of all, I would like to say that it is good to be back, and it is certainly an honor.

Senator DECONCINI. We are glad to have you here.

Mr. CALHOUN. First of all, I would like to introduce Mr. Howard Solomon, the Executive Director of the Federal Service Impasses Panel, who is representing Chairman Brewer who is in California; Clyde Blandford, who is the Acting Executive Director. You know Mr. Devaney, and we certainly welcome him. Then George Baily who is the Director of the Office of Financial and Program Analysis.

Again, I am pleased to be able to come and discuss our appropriations request for the 1989 fiscal year.

As an initial matter, I would like to say that I am personally delighted that the President has seen fit to designate Mr. Devaney as the Acting General Counsel. I know, as he has done at the Board, he will bring great credit to the Federal Labor Relations Authority.

I have known Dennis over the course of the last 5 years and I have worked closely with him on a number of areas. I look forward to our association with a great deal of optimism. I am sure that it will be a good working relationship.

With respect to our budget, I would just say a couple of things. First of all, I think that the Authority has made considerable progress in the last year in the area of managing our docket, and in the area of developing the principles to carry out the mandate that Congress has given us with respect to our program.

We want to thank this committee for its cooperation in helping us give our professionals the tools in the form of the ADP upgrade to do the job that they have to do. We think that we are almost there. We have most of the equipment in hand. We hope to get some of the finishing touches done shortly, and that is on track.

The other effort had to do with our renovation of space, and that is on plan with respect to timing and within the budget provided.

With respect to fiscal year 1989 in particular, we basically are going to experience a pretty stable program with respect to resources and with respect to caseload, in our view. We are reducing our dollar request by $36,000 and we are also reducing our FTE by 2 percent or 12 in that fiscal period.

PREPARED STATEMENT

Those are essentially the highlights. We have submitted a more detailed statement of our submission. We would be happy to answer any questions on that.

[The statement follows:]

STATEMENT OF JERRY L. CALHOUN

Mr. Chairman and Members of the Committee, I appreciate this opportunity to appear before you to discuss the FY 1989 appropriation request for the Federal Labor Relations Authority (FLRA).

The request before you is for $17,540,000 and 261 full-time permanent positions. This represents a decrease of $36,000 from the FY 1988 level. The 261 full-time permanent positions is a 12 position reduction from our current authorized level.

The FLRA budget request consists almost entirely of mandatory items of expenditure. As the table below indicates, salaries/benefits, space rental, and communications and utility charges constitute 91 percent of the FLRA appropriation request.

ITEM	PERCENT OF TOTAL BUDGET REQUEST
Personnel Compensation and Benefits	76.7%
Rent Payments to GSA	11.3%
Communications, Utilities, and other Rents	2.7%
All Other Categories	9.3%
TOTAL BUDGET REQUEST	100.0%

Before discussing our FY 1989 program in more detail, I would like to update the Committee on the status of two projects contained in our FY 1988 funding request: the upgrade of our ADP system and our space renovation efforts. First, most of the software and hardware related to the ADP upgrade has either been received and installed or is currently awaiting delivery. We expect to complete installation by the end of FY 1988. Secondly, with respect to our space reduction effort, we expect to reduce 8,000 sq. ft. of headquarter's office space by the end of FY 1988. Our FY 1989 request reflects the initial impact of this space reduction effort. I want to express my appreciation to the Committee for their support of these two efforts.

The FLRA was established to administer Title VII of the Civil Service Reform Act of 1978 and to serve as an adjudicatory agency in the resolution of labor-management disputes arising among unions, employees and Executive Department agencies (as well as some Legislative Branch agencies). The FLRA is also charged with resolution of labor-management disputes which may involve foreign national employees of the U.S. Government in the area of the Panama Canal, and our staff resources support the activities of the Foreign Service Labor Relations Board under Chapter 10 of the Foreign Service Act of 1980. The Authority is mandated to resolve disputes arising in these areas.

In FY 1986 the Authority set two primary objectives. The first was to reduce the case inventory and to decide cases in a more timely manner, specifically, within a 180-day time frame. The second was to actively seek ways that we could better exercise the leadership role Congress envisioned when the program was established.

I am pleased to report, that as we witness the tenth anniversary of the passage of the Civil Service Reform Act, that the Authority's inventory of overage cases has been eliminated. On April 1, 1986, there were 512 cases which were pending for more than 6 months. As of February 29, 1988, the Authority has no cases that have been on our docket for more than 180 days. The Authority's total case inventory now stands at 195 cases.

In FY 1989 the Authority intends to continue its efforts to improve case productivity and to emphasize the quality of its decisions while maintaining our processing goals. The Authority has recently issued several significant cases that will serve to provide the additional guidance to the parties as well as set longstanding policy guidance.

In addition to providing guidance to the parties through the issuance of timely and quality decisions, we recently received approval from the Office of Management and Budget to publish a new periodical "Guide to Arbitrators in the Federal Service Labor-Management Relations Program". This publication will serve as an instructional guide to arbitrators, agencies, and unions on the principles and case law governing arbitration in the Federal sector.

We intend to continue to creatively and aggressively manage our docket by targeting issues, maintaining our case processing standards, and providing guidance through the issuance of decisions and publications to Federal labor relations practitioners. With these highlights in mind, I would like to review each of our major program units: the Authority Members, the Office of the General Counsel, the Office of Administrative Law Judges, the Federal Service Impasses Panel, and Management and Administrative Support.

The Authority Members program unit includes the Offices of the Members, Office of Case Control, Office of Information Resources and Research Services, and the Office of the Solicitor. This program unit is directly responsible for the processing of all cases within the jurisdiction of the Members, from the receipt of case filings and related documents through the issuance of decisions resolving disputes over arbitration awards, negotiability determinations, unfair labor practices, and representation issues. It also includes all activities relating to publication and judicial review or enforcement of Authority decisions. (The Statute grants the Authority the right to be represented by its own attorneys in any civil action brought in connection with any function carried out by the Authority.) Case intake in the Authority's four case load areas is projected at 570 cases in FY 1989.

The Chairman of the FLRA serves also as Chairperson of the Foreign Service Labor Relations Board, and the staff of the agency provides support to the Board. The Board, established in section 1006 of the Foreign Service Act of 1980, has jurisdiction over labor-management disputes involving Foreign Service employees. Its functions include: (1) supervising or conducting elections to determine whether a labor organization has been selected as an exclusive representative; (2) resolving complaints of alleged unfair labor practices; (3) resolving issues relating to the obligation to bargain in good faith; and (4) resolving disputes concerning the effect, interpretation, or claim of breach of a collective bargaining agreement.

The Office of the General Counsel has final authority over the investigation of unfair labor practice (ULP) charges and the issuance and prosecution of all ULP complaints. The Office also investigates and makes the initial disposition on representation petitions; supervises or conducts representation elections and certifies the results to the parties; conducts hearings in representation cases; and directs and supervises the activities of employees in the Regional Offices. In FY 1989 the Office of the General Counsel will take a reduction of five positions as that components share of the FLRA's reduction of 12 positions. Three positions will be reduced in the National Office and two positions will be reduced in the Regional Offices. The Acting General Counsel, Dennis M. Devaney, in his prepared statement, will address further the FY 1989 program and budgetary aspects of the Office of the General Counsel.

The Office of Administrative Law Judges (ALJ) is charged with the responsibility of holding hearings on unfair labor practice complaints issued by the General Counsel and for recommending decisions to the Authority. Since the General Counsel expects to issue more complaints, it is projected that the number of ALJ settlements and decisions will increase to approximately 770 in FY

1989 from 714 in FY 1988. We expect the hire of one additional ALJ and the more effective use of calendar calls to lead to increased productivity.

The Federal Service Impasses Panel (Panel) is an entity within the FLRA which is responsible for assisting Federal agencies and unions representing Federal employees in resolving impasses arising out of labor negotiations. In addition, the Panel staff supports the Foreign Service Impasse Disputes Panel in resolving negotiation impasses arising under the Foreign Service Act of 1980. The Panel Chairman is Roy M. Brewer of California.

The Panel serves as the Federal sector substitute for the strike/lockout. If the mediation efforts of the Federal Mediation and Conciliation Service (FMCS) prove unsuccessful, the Panel will then assist the parties, as required, by law in resolving the impasse. Resolution techniques utilized by the Panel include informal conferences, factfinding and interest arbitration. The Panel emphasizes voluntary settlement, believing that agreements which are reached by the parties themselves enhance commitments to contract terms. It is projected that in FY 1989 the Panel will resolve approximately 207 impasses. The Panel since the middle of FY 1987 has experienced a substantial increase in its workload. Case in-take which reached 210 cases in FY 1987 is projected at 294 in FY 1988 and 347 in FY 1989. This represents an increase of 65 percent over a two year period. This rise in cases results largely from recent FLRA decisions which enlarged the scope of bargaining; health and safety issue cases; and negotiations arising out of the reorganization and relocation of Federal agencies. To assist the Panel in meeting this workload, the Authority and the Office of the General Counsel have each transferred one-half a workyear to the Panel for the FY 88 - FY 89 period.

The Management and Administrative Support function provides agency-wide administrative support to the National and Regional

Offices of the FLRA. The Office of the Executive Director and the Office of Administration are responsible for the full range of Agency budget, financial, personnel, security, procurement and administrative support services. Of course, accomplishment of our mission depends to a great extent on the effective performance of these support functions. As part of a review of our system of internal controls, an audit of the Agency's financial management system was recently completed by a private sector accounting firm. The audit was conducted using the "General Accounting Office Standard for Audit of Governmental Organizations, Programs, Activities, and Functions". The audit concluded that the Agency's financial statements were accurate and in accordance with generally accepted accounting principles.

In summary, I am pleased to report that the FLRA has made significant progress in the reduction of its case inventory and in providing the parties with timely responses to case filings. We fully intend to continue to produce quality decisions within the case processing timeframes we have established. We also plan to continue to promote a better understanding of the Agency's role in Federal labor-management relations among the parties with whom we deal. We are committed to the principle that it is our responsibility as Federal employees to use our resources efficiently and effectively in accomplishing our mission at the least cost to the taxpayers. We will continue to seek improved methods to accomplish this objective. To that end, I ask your approval of our budget request for $17,540,000 in FY 1989 to allow us to continue to meet our mission of promoting improved Federal labor-management relations. Again I want to thank the Committee for its support without which these accomplishments would not have been possible.

Mr. Chairman, this concludes my prepared remarks. I will be glad to answer any questions you and the members of your Committee may have.

RELATIONSHIP BETWEEN AUTHORITY AND GENERAL COUNSEL

Senator DECONCINI. Do you have any comments, Mr. Devaney?

Mr. DEVANEY. Just a brief comment, Mr. Chairman.

Mr. Chairman and Senator Domenici, it is a pleasure for me to be here. I have been before the committee on a number of occasions in my other role as Board member of the Merit Systems Protection Board. I am particularly pleased to be here as Acting General Counsel of the Authority.

I echo what Jerry said. We have known each other for 5 years. I can say that he is a colleague and a friend. I know Jean McKee, we both used to represent the same corporation when we were in the private sector. So I am looking forward to the challenge of being General Counsel at the Authority.

I am aware that in the past the Authority has experienced some heavy seas in attempting to balance the need of its component parts, to enjoy the requisite statutory independence, with the need of the agency to achieve common goals and resolve common problems. I want to assure you, Mr. Chairman, and committee members, that Chairman Calhoun and I are committed to ensuring that that type of difficulty is history.

We have to work with you in Congress to carry out the mission with which the agency has been tasked. As you know, our organization is small. Its budget is small. We have an important mission that Congress has established for us, and I think we can operate successfully within the statutory parameters, but only if we work cooperatively.

I look forward to working with Chairman Calhoun, Member McKee, Chairman Brewer, and with you and the Congress to realize our goal of becoming a model agency in administering the program.

In closing, I would just like to pay tribute to my predecessor as General Counsel, Jack Miller, who retired on March 7, 1988, after 39 years of distinguished Federal service.

PREPARED STATEMENT

As you requested, we have submitted a detailed program budget and I will be more than happy to answer any questions you have.

[The statement follows:]

STATEMENT OF DENNIS M. DEVANEY

It is a pleasure to appear before you today as the Acting General Counsel of the Federal Labor Relations Authority. The President designated me as Acting General Counsel on March 17, 1988 and intends to submit my nomination to the Senate for confirmation as General Counsel of the Federal Labor Relations Authority. John C. Miller, the former General Counsel, retired on March 7, 1988 after 39 years of distinguished Federal Service. I appreciate the opportunity to appear before you to present the budget request for the Office of the General Counsel for fiscal year 1989, and to support the total budget request for the Federal Labor Relations Authority. We have already submitted a detailed written budget justification in support of our request. With your permission, I would like to touch briefly on some of the highlights of that justification, and make a few observations as well.

Briefly, I would like to outline the responsibilities of the Office of the General Counsel. The General Counsel is directly responsible for investigating all alleged unfair labor practices filed pursuant to the Federal Service Labor-Management Relations Statute, the Panama Canal Act, and the foreign service labor-management relations provisions of the Foreign Service Act of 1980. The General Counsel has direct authority and responsibility for the issuance of complaints resulting from the unfair labor practice charges filed pursuant to the statutes mentioned above. The General Counsel has been delegated responsibility for the investigation and disposition of representation case petitions, the conduct of all representation case hearings and elections, the certification to the parties of the results of representation case elections and the preparation of Decisions and Orders pursuant to representation case hearings. Finally, the Office of the General Counsel is responsible for the supervision and management of the FLRA Regional Offices.

The statutory right of employees to organize, to bargain collectively through representatives of their own choosing, and to participate in decisions which affect them safeguards the public interest and contributes to the effective conduct of public business. These statutory protections also facilitate and encourage amicable settlement of disputes between employees and their employers involving conditions of employment. The Federal Service Labor-Management Relations Statute details certain rights and obligations of the employees of the Federal government and establishes procedures which are designed to meet the special requirements and needs of the Government to be efficient and effective. The General Counsel operates in the Federal sector labor-management relations arena to ensure compliance with statutory rights and obligations of Federal employees, labor organizations which represent those employees, and the Federal agencies falling under the jurisdiction of Title VII of the Civil Service Reform Act of 1978.

The budget request for the Office of the General Counsel for fiscal year 1989 provides for 138 full-time permanent positions and totals $7,862,000. This total excludes the costs of centrally funded items within the FLRA (GSA space, FTS communications, penalty mail, etc.) This request reflects a reduction of five positions in fiscal year 1989, which will be offset by increases in the productivity levels within the Office of the General Counsel.

The request for $7,862,000 reflects an increase of $340,000 over our approved funding level for Fiscal Year 1988. The increase in funds is requested for increases in the costs of personnel compensation costs and benefits, and to fund increased travel costs resulting from revisions to the GSA calculations of employee reimbursements for travel expenses. Because the Office of the General Counsel has already eliminated through attrition the five positions being cut in Fiscal Year 1989, the savings associated with the reduction of the five positions have been incorporated into the budget for Fiscal Year 1988.

At the outset, I want to stress my support for the President's budget request. It is a fair reflection of the needs of the Office of the General Counsel. As I mentioned earlier, the five positions which are being eliminated are being reduced in conjunction with continued projections for productivity enhancements. The forecasts contained in the budget are realistic. We are projecting that 5,650 cases will be received in Fiscal Year 1989, an increase of 2.7% over the projected intake this year. We believe that we will sustain the timely processing of our caseload through Fiscal Year 1989.

In looking at our budget request for Fiscal Year 1989, it is important to stress that the Office of the General Counsel is a "labor-intensive" organization. Of the total budget request of $7,862,000, $7,089,000 is requested for the costs of personnel compensation and benefits -- over 90% of the total request. A total of $435,000 is requested for travel, which is vital to the success of our program -- the travel request equals another 5.5% of our total budget request. These two items, travel and personnel costs, account for nearly 96% of our total budget request. Library subscriptions for the law libraries in the Regions are projected to cost $75,000 and maintenance contracts on existing equipment are projected to cost $120,000 in Fiscal Year 1989. These two items alone account for another 2.5% of the total budget request. In total, these four areas account for 98.5% of the budget request for the Office of the General Counsel -- personnel compensation and benefits, travel, library subscriptions and maintenance contracts. Virtually no discretionary expenditures remain in this budget request.

With these thoughts in mind, I would like to express some specific observations regarding the preparation of this budget request. First, the Office of the General Counsel has no control over the size of its intake. The total intake has remained relatively stable in recent years, increasing somewhat during non-election years and returning to a level of approximately 5,500 cases annually during election years. However, the nature of the cases being filed has changed as interpretations of the Statute have changed.

In looking at the impact of this budget request on the workload requirements of the Office of the General Counsel, the highest priority will continue to be assigned to the processing of representation cases, including the expeditious investigation of all petitions, conducting elections and representation case hearings, and issuing final decisions in all cases involving such hearings.

Briefly, I would like to review the case flow for the unfair labor practice caseload for the Office of the General Counsel, and to focus on our principal challenges in processing this caseload. When an unfair labor practice charge is filed, it is investigated and, if found to be meritorious, the parties are encouraged to settle voluntarily without further action. Roughly three fifths of all charges found to have merit are settled prior to the issuance of complaint. When a complaint must be issued (in cases found to be meritorious where voluntary settlement cannot be obtained), settlement efforts are continued. In Fiscal Year 1987, voluntary settlements were obtained in nearly three fifths of all cases where complaints were issued. The total settlement rate for our merit caseload equalled 84.5% in Fiscal Year 1987. Where settlement cannot be obtained, cases are transferred to the Authority for final decision -- either through hearing before an administrative law judge, motion for summary judgement to an administrative law judge or stipulation directly to the Authority. Six percent of all unfair labor practice charges were transferred to the Authority in Fiscal Year 1987 for final decision. In Fiscal Year 1987, 5,815 unfair labor practice charges were received - 305 were transferred to the Authority for final decision. Of this total, hearings were held in 154 ULP complaints, motions for summary judgement were obtained in 71 complaints, and stipulations to the Authority were obtained in 80 complaints.

Cases found to be without merit are voluntarily withdrawn by the charging party or they are dismissed. Historically, withdrawals are obtained in roughly 55% of all cases determined to be without merit. The remaining 45% are dismissed and, of that number, approximately 35% are appealed to the Office of the General Counsel. Outlined at the top of the next page is a percentage distribution of the outcomes of the ULP charges, using actual experience in Fiscal Year 1987. The table summarizes all initial and secondary actions.

Cases Determined to Have Merit	2,197 cases	-- 39%
Pre-Complaint Settlements	1,348 cases	- 24%
Complaints	849 cases	- 15%
Post-Complaint Settlements	458 cases	- 9%
Hearings/Stipulations/Motions	305 cases	- 6%
Violations Found	253 cases	- 5%
No Violations Found	57 cases	- 1%
Cases Determined Not to Have Merit	3,484 cases	-- 61%
Withdrawals Obtained Prior to Dismissals	2,014 cases	- 35%
Dismissals Issued (No Withdrawal)	1,470 cases	- 26%

No Appeal Filed........................... 886 cases - 16%
Appeal Filed............................... 584 cases - 10%
  Regional Office Sustained......... 504 cases - 9%
  Regional Office Reversed/Remanded. 17 cases - 1%

Briefly, I would like to review some of our highlights in Fiscal Year 1987.

-- During the fiscal year, 6,107 cases were received. This total did not include 75 deficient cases which were not made sufficient by the charging parties. The total of 6,107 new cases was more than ten percent higher than intake in Fiscal Year 1986, 5,524 new cases. Included in the increase of 583 ULP charges were 227 "names and home addresses" cases. Intake in Fiscal Year 1987 was the second highest ever for the Office of the General Counsel, and reached its highest level since Fiscal Year 1981.

-- A total of 5,964 dispositive actions were taken on the unfair labor practice and representation cases in Fiscal Year 1987. This total was 604 cases, 11 percent, higher than the total of 5,360 dispositive actions taken in Fiscal Year 1986. The sharp increase in dispositive actions reflected a marked increase in productivity within the Office of the General Counsel.

In concluding my statement, I want to express my appreciation to this Committee for approving the FLRA request to reprogram travel funds. Approving our reprogramming request reduces the amount of the increase in travel funds needed for Fiscal Year 1989. Travel remains an essential component of our work, and adequate travel funds are necessary to ensure the full productivity of our staff. The Office of the General Counsel serves a world-wide jurisdiction. Our cases are dispersed all over the country and the world. In Fiscal Year 1987, only two jurisdictions throughout the country had concentrations of more than 5% of our total workload -- California, where we have two Regional Offices, and Maryland. A total of 47 separate jurisdictions each have less than 2% of our workload, so we must travel. Our travel is nearly all direct case-related travel. Even with the reprogramming, we have had to restrict travel funds for our Regional Offices. We have had to curtail sharply our outreach programs, which we use to train our clientele and hopefully reduce the incidence of unfair labor practices. We have had to limit recruiting actions to the immediate area of the vacancy. In two instances this year we have lost the most highly qualified applicant because we could not afford to pay relocation costs, which are counted against travel funds. GSA has estimated that its revisions to the methods of computing per diem costs have increased travel costs by 5%. We have had to absorb those costs, which has had the effect of cutting even further our available travel funds. So far this year we have had to postpone investigations to less populated jurisdictions because of lack of travel funds, which has in effect resulted in deferring service to those areas. After the Committee's action in approving the reprogramming, we are asking for an increase in travel funds of $37,000. I can assure you that it is needed.

This concludes my formal statement in support of the President's budget request for the Office of the General Counsel for Fiscal Year 1989. I would note that the high settlement rates combined with the productivity increases by the staff were responsible for maintaining the timely processing of our cases and controlling our case backlogs. This budget request is essential to our continued ability to perform our mission. With a continuation of the support and assistance which this Committee has provided in the past, I am confident that the staff of the Office of the General Counsel will continue to strive to meet our responsibilities and the challenges ahead. Thank you for your attention to this statement. I will be happy to respond to any questions which you have.

Senator DeConcini. Thank you, gentlemen.

Indeed, it is a better climate this year than last year. What steps, Mr. Calhoun, are you prepared to take or have you taken to assure that the battle that you had with Mr. Miller is not going to be resurrected with Mr. Devaney, even though you are friends and colleagues?

Last year, we had a horrendous argument, as I recall, about separate accounts. I happen to agree with your position. How have you resolved that?

Mr. Calhoun. I think that it has been said. Mr. Devaney and I discussed our history, and we understand that history. We understand our statute, and we understand what Congress has given to do. We have basically committed to do that cooperatively and to work within the walls of the agency to make sure that our program is carried out, and that it is done so within the parameters of our budget. And that we take care to make sure that we, as colleagues, work as colleagues. I am just confident and optimistic that we are going to be able to do that.

Senator DeConcini. No more talk about two accounts, is that behind us now?

Mr. Devaney. Mr. Chairman, I can commit that is behind us now.

Senator DeConcini. Thank you, gentlemen, I want to compliment you for putting it to rest, because you do have an important mission, I think. The agency being as small as it is, it seems to me that you really jeopardize your mission with the conflict that you had.

I am really glad you have joined the agency in your capacity as General Counsel with at least an attitude of cooperation. I think that a lot can be done.

Mr. DEVANEY. I think both the Chairman and I recognize that the substantive part of the statute requires that we be independent, and that is certainly what we intend, but I don't think that we need to have the heavy seas.

TRAVEL RESOURCES

Senator DECONCINI. Mr. Calhoun, just one question. Your budget calls for a cut of 12 positions.

Mr. CALHOUN. Yes, sir.

Senator DECONCINI. That is about $386,000. Yet, I notice that you are asking for an increase of $114,000, or 24 percent, in travel over last year's level. It seems to me that your agency would be better served if you retained some of those positions and take a much lower travel increase. You probably could have funded three or four positions for that kind of travel.

What would be your reaction if we were to put the $114,000 increase into positions rather than travel?

Mr. CALHOUN. My reaction is on two levels, I guess. First of all, the travel is a necessary part of our activities. We cover the world, essentially, insofar as the responsibilities under the statute.

The FSIP organization is kind of at the whim of the program, if you will. Where there are disputes, they have to go to those disputes and work toward their resolution.

The General Counsel's Office, of course, has tremendous travel with respect to its regional structure. People have to move around, to get out and work with the parties and their disputes and work toward their settlement.

Our Solicitor's Office has to represent us in all the various numbered circuits and the D.C. circuit.

Travel is essential. If you look at our case projections in the ULP area, as well as in the FSIP area, you will notice that our caseload is increasing, and it is just necessarily going to cost more money.

Senator DECONCINI. You can do the job with less people, if you can get those less people to the places they have to be?

Mr. CALHOUN. Yes, sir.

Senator DECONCINI. You really believe that?

Mr. CALHOUN. I do believe that. I think with the technology, with our efficiencies and economies that we have injected into the case handling at headquarters, we are able to take the 2 percent without any great effect on our ability to carry out our job.

I do not believe that we could take a similar reduction in travel. Rather I think we need more resources to travel, because I think with the reduction in the caseload, it is causing parties to exercise, if you will, other parts of the program.

Where before the case law had been unclear, where the cases had not been settled, we have now settled a lot of the case law. We have answered a lot of the questions before the Authority, and we have put the issues back with the parties.

I think the parties are still in the young stages of our program, testing the limits of their relationships and the meaning of the statute, which means that they are going to be brought together in various relationships, be they ULP's or before the courts.

Our big caseload has gone from the Authority to the circuit courts of appeal. So we have a lot of people going to the courts, going to settlement, working in those ways.

Senator DECONCINI. When you submitted your budget to the OMB, did you put it this way? Did you ask for less slots and more travel, or did they?

Mr. CALHOUN. They asked us the question with respect to FTE and whether or not we could enjoy savings in that area. We discussed it and we landed on a mutual spot.

Senator DECONCINI. Had you already been short of positions that you hadn't filled?

Mr. CALHOUN. We have had lapse. Quite frankly, I think that we may have some lapse this year. I think that most of that lapse will be as a result of not having one of our member's offices filled. We have one member office that is vacant, sir.

Senator DECONCINI. Do you agree with that analysis, the need for more travel and less positions?

Mr. DEVANEY. I do, Mr. Chairman.

On the general counsel's side, we expect a 3-percent increase in ULP charges based on historical records. Looking at this as an election year, perhaps it will be down a little, but we still expect a 3-percent increase.

The other thing, I think, you have to recognize is that GSA has upped the per diem levels and that is going to be reflected in the need for a little more money in the travel budget. We also appreciate the reprogramming.

I actually agree completely with the chairman that we can do our job efficiently with less manpower, but frankly we do need the travel budget. As you know, the general counsel and the Authority have worldwide jurisdiction, and we have to go investigate the charges where they are filed. Particularly on the general counsel's side, we have to go and investigate the charges near the site where they occurred.

Senator DECONCINI. Thank you, gentlemen.

FEDERAL SERVICE IMPASSES PANEL

Mr. SOLOMON. May I say one word, Mr. Chairman.

Senator DECONCINI. You certainly may.

Mr. SOLOMON. I am representing Chairman Brewer who lives in California. He sends his regrets because he simply could not be here today. He asked me to say just a few words to you.

As you know, the panel consists of seven part-time Presidential appointees scattered about the country. Our job is to resolve negotiation disputes in the Federal sector. Some call us the substitute for the strike. This is the last step of the procedure where it all ends. We are doing this with a small full-time staff of five professionals, an office manager, and two clericals, which will be augmented shortly by one more professional.

With limited resources, representing just about 3 percent of the Authority's budget, and a caseload which has increased approximately 50 percent over the last 5 months over a similar time period last year, we are truly fighting an uphill battle to mediate and arbitrate disputes all over the country, coming to us from such diverse places as the Panama Canal, Air Force Logistics Command in Dayton, OH, and Social Security Administration offices located in Arizona and all over the country.

Such impasses arise because of budget-driven reductions in force, relocations, technological changes, and an enlarged scope of bargaining. Unless they are resolved fairly and swiftly, we feel there will be an adverse effect on Government operations, both in its military and nonmilitary aspects.

Chairman Brewer just wanted to respectfully ask the committee that they take note of these challenges that are facing the panel as it evaluates our budget for fiscal year 1989.

Senator DECONCINI. Are you satisfied with your budget request here, or do you think that it is too low?

It seems to me like you are suggesting that you are not going to have enough.

Mr. SOLOMON. Any agency would always like to have more money, but we realize that these are the times in which we live. Moreover, the Authority has been more than willing to reallocate funds as the fiscal year proceeds in accordance with what moneys may be left over, and in accordance with the needs of various components of the Authority such as the impasses panel.

Senator DECONCINI. The Federal impasses panel shows an increase in workload.

Mr. SOLOMON. Yes.

Senator DECONCINI. Including a substantial increase in the carryover cases.

Mr. SOLOMON. Right.

Senator DECONCINI. To what do you attribute the increased workload of the panel?

Mr. SOLOMON. An enlarged scope of bargaining as a result of FLRA decisions; and reorganizations and relocations due to restructuring of Federal agencies, budget cuts, and the like. Those are perhaps the two key factors that are causing this increase.

Drug testing issues are starting to come to us. We have had our first AIDS case. Smoking policy is a very big issue in the Federal sector right now, as well as alternative work schedules.

Senator DECONCINI. We just noticed that your caseload has almost doubled. The carryover cases are almost doubled, but you are asking for essentially the same amount of money. Are you going to be able to do all this and reduce the caseload with the same budget?

Mr. SOLOMON. The Authority is giving us an additional person, coming on board shortly.

Senator DECONCINI. It doesn't show that in your budget request here. It shows nine full-time personnel from 1987 through 1989. Maybe you haven't filled one.

Mr. SOLOMON. If you look on page 25, Senator, you can see that we are going from 7 full-time equivalent staff years in 1987 to 9.5 in 1988, and going up to 10 in 1989.

Mr. CALHOUN. If I may just note, sir, Acting General Counsel Devaney and I have shared allocation of our resources to the panel to address some of their workload. We are cognizant of it, and we have been working to assure that they do have the resources, and we will make sure that they do.

Senator DECONCINI. OK.

Mr. CALHOUN. As we noted earlier, because of a lot of decisions that now flow from the Authority, it is shifting the workload to other components.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Senator Domenici has a few questions, and we have a few that we will submit to you, if you would respond to them. Thank you very much.

Tell the Chairman thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

FLRA: Workload Data

A brief examination of your workload data on page 19 of your justificatons shows that virtually every category of case loads shows a decline in output. New case intake will drop next year, as will total cases closed. Cases pending at the end of the year will also drop in fiscal 1989 below 1988 projected levels.

Question -

> To what do you attribute this drop in case loads--is it better staff productivity? Fewer unfair labor practice cases or what?

Answer -

Throughout FY 86, 87, and 88, the Authority made great progress in closing increased numbers of cases, while filing of new cases remained essentially level. (The only exception being an FY 87 increase in unfair labor practice filings concerning the disclosure of names and home addresses of bargaining unit personnel.) By February 1988, we had achieved our goal of issuing decisions in all cases within 6 months of date of filing. We are firmly committed to maintaining a totally current caseload through FY 89. Thus, as long as case intake remains essentially constant, there will be fewer cases to close than in the past. Based upon a review of our case intake statistics, we do not anticipate significant long term changes in the types or numbers of cases coming before the Authority.

Question -

> To what do you attribute the increased workload at the Federal Service Impasses Panel?

Answer -

There are several reasons for the 50 percent increase in requests for Panel assistance during the first 5 months of FY

1988 (which indicates that our caseload projects for FY 1989 are actually too low). One is that the scope of bargaining in the Federal sector has broadened as the result of recent Authority and U.S. Courts of Appeals decisions. For example, negotiations concerning the impact of technological changes such as the introduction of computers at Social Security Administration offices. A second reason is bargaining growing out of the consolidation and relocation of offices at such agencies as the Internal Revenue Service, U.S. Customs Service, and Social Security Administration. We expect this trend to become even stronger during FY 1989 because of budget-driven decisions by Federal agencies to RIF or furlough employees as, for a current example, at the Air Force Logistics Command.

FLRA: Drug Testing: Impact on your operations?

Mr. Calhoun, as you know this Subcommittee has been right in the middle of the President's Federal drug testing program. We helped set out the ground rules for this program and have fought off attempts to exempt certain agencies from the President's drug testing program.

Question -

Has the Federal drug testing program had any effect on your operations in fiscal 1988?

Answer -

It has not had an appreciable impact to date. In terms of budget implications, when we contract for urine collection and testing with an HHS-approved laboratory there will be certain costs involved that we cannot accurately project at this time. However, because of our small size, we do not foresee a major impact. We should also note that the Authority has decided 12 negotiability appeals relating to the scope of collective bargaining over agency drug testing programs. At least one unfair labor practice charge is pending on the subject. Considerable staff time was spent on the resolution of the negotiability cases. However, the overall effect on our operations of deciding these cases was not materially different from our efforts to decide other complex cases on our docket in a timely fashion.

Question -

Tell us about the FLRA's drug testing effort within the Agency.

Answer -

The FLRA has devised a comprehensive program to achieve a Drug Free Workplace which we plan to implement by the Spring of 1988. We are expecting a meeting within a few weeks with HHS and Justice representatives as well as the other Tier 3 agencies to obtain approval of our plan which we will then proceed to implement.

Question -

Your budget includes $45,000 for employee training. Again, wouldn't it have made more sense to put this money into retaining employees, rather than into training.

Answer -

Considering that our total annual payroll is over $12 million, $45,000 represents a rather modest expenditure on employee training. Much of that money will be spent to train all Authority employees in the operation of the new automated data processing system which we have purchased and which will be installed by the end of FY 1988. This training is necessary to realize full utilization of the equipment and achieve our productivity goals. In addition, we support continuing legal training for our attorneys as well as appropriate job-related training and education for paralegals and other employees. For example, we have sent people to "The Secretarial Seminar"; "Cite Checking and Style"; "Successful Legal Research"; and "Developing and Using Filing Systems." Supervisors also must receive ongoing training, one example being the provisions of the previously discussed Drug Testing Program.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

Question 1 -

I would like to commend you for your space reduction effort. You say that by the end of fiscal year 1988, you expect to reduce 8,000 square feet of Headquarters office space allowing for a savings of $126,000 in fiscal year 1989. As a result of this space reduction effort, where will the Authority be in meeting the GSA goal of 135 square feet per person?

Answer 1 -

Based on the staffing pattern reflected in FLRA's FY 1989 request, the Agency's utilization rate at Headquarters will be reduced to 194 square feet per person for office space. We expect to undertake additional consolidation efforts in the future to move the FLRA closer to the 135 square feet per person target.

Qustion 2 -

I also think you should be highly commended for your successful efforts to reduce your case backlog and to be meeting the 180-day timeframe for case disposition.

Do you have any concern that you will be able to sustain the progress you have made with 12 fewer full-time equivalent positions proposed for fiscal year 1989, especially given the fact that you find it difficult to find savings out of such areas as travel?

Five of these positions are being taken from the Office of the General Counsel; where are the other 7 positions being taken and how will you compensate for these reductions?

Answer 2 -

The reduction of work years within the Authority is a concern from the standpoint of ensuring that case backlogs are not created and that the 180-day timeframe for case disposition is maintained. The 180-day timeframe for case processing to which you refer is only applicable to the resolution of cases by the Authority Members in its headquarters. Of the 12 full-time equivalent work year reduction, the Authority will reduce 6.5 work years and the Office of General Counsel 5.5 work years. The Authority and the Office of General Counsel are each taking an additional 0.5 work year reduction in order to provide 10 work years in FY 1989 to the Federal Service Impasses Panel due to their increased caseload.

I anticipate reducing staff by trimming administrative overhead where feasible and reducing the case handling staff to a number consistent with the reduction in case inventory [such reduction will be accomplished through attrition and lapse]. The personnel responsible for these operations utilize only a small portion of the FLRA's travel budget. However, we do not foresee any serious deleterious effect on our case disposition capability for two reasons:

1. In the past, we needed a case handling staff sufficient to gain control of our case inventory, eliminate the case backlog, and thus become current. We think that maintenance of a steady-state operation can be accomplished with a totally current case inventory and a slightly diminished staff. Also, case closings as a result of reductions in our case intake and case inventory, should fall from 786 in FY 1987 to approximately 584 in FY 1989; and

2. Our enhanced ADP capability will be fully operational later in FY 1988. This increased ADP capability will assist productivity by reducing the number of cases at each terminal; improving data processing applications for analysis and research; and allowing for an upgraded word processing system.

Question 3 -

What amount of your fiscal year 1989 travel request is associated with GSA's per diem cost revisions?

Answer 3 -

The Committee recently approved our reprogramming request for $50,000 which increased our FY 1988 travel/transportation line to $524,000. We are requesting an increase of $68,000 from FY 1988 to FY 1989, and of that $68,000 amount $28,000 is associated with GSA's per diem cost revisions.

Question 4 -

> You are projecting a $5,000 increase in payments to the Postal Service in fiscal year 1989. What is this increase for?

Answer 4 -

The projected increase of $5,000 is associated with the mailing of FLRA publications to the labor relations community-at-large and with the increased use of express mail services.

Question 5 -

> Your "other services" request for fiscal year 1989 includes $60,000 for FEMA accounting/computer support and $40,000 for payroll/personnel support from the Department of the Interior. Would you describe a little more fully what services FEMA and Interior are providing the Authority?

Answer 5 -

The FLRA obtains accounting support from the Federal Emergency Management Agency through their automated Financial Accounting and Reporting System. The system provides on-line data entry of obligations, disbursements, and other financial information. It produces accounting and budget reports which are essential to agency management. These automated reports are also used to prepare external financial reports required by OMB and the Department of the Treasury.

We obtain payroll and personnel support from the Department of the Interior through their automated PAY/PERS System. The system provides for the payment of salaries to FLRA employees and the accommodation of regulatory requirements regarding pay and leave. It provides automated data processing transmission capability for input of data and receipt of required payroll and personnel reports. The Department of the Interior also provides payroll operation services including time and attendance processing and adjustments, payroll reconciliations, maintenance and reconciliation of Federal, State, and local taxes, and completion of reports for bonds and for Federal emloyment and wages to state governments. Interior also prints out our personnel actions and generates many routine reports such as those that involve work year utilization and leave.

Question 6 -

You mention in your testimony that the OMB has recently approved your publication of a quarterly periodical. Are the costs for this publication included in the budget? Will it be distributed free-of-charge and who will receive it?

Answer 6 -

Yes, the cost of publication of the Arbitration guide is included in the Printing and Reproduction object class of our budget. The guide will be distributed without cost across a broad spectrum of individuals and groups who participate in the arbitration of Federal sector labor disputes. This would include groups such as the Federal Mediation and Conciliation Service and other Federal departments and agencies, unions, and the American Arbitration Association.

Question -

The fiscal year 1989 request for your office reflects a reduction of five positions below fiscal year 1988. In addition, the Chairman indicates that your office is transferring one-half a workyear to the Impasses Panel for the fiscal year 1988-1989 period. You say in your testimony that your office is projecting a 2.7% increase in cases received in fiscal year 1989, and that only 1.5% of your budget is discretionary. What productivity enhancements do you intend to make to offset the position reductions proposed to allow you to sustain the timely processing of your increased caseload through fiscal year 1989.

Answer -

Productivity levels for the Office of the General Counsel have increased steadily over the last several years. Several factors have contributed to the productivity enhancements, and we project these increases will continue.

(1) First, one of our biggest assets is the stability of our core staff. While we have some turnover in our organization, we are not experiencing the rates of turnover that we saw earlier in the program. The increased experience of our staff is reflected in their ability to handle more cases. The experience level of our staff accounts for the bulk of our enhanced productivity levels.

(2) Second, we continue to refine our case processing procedures and methods. We have changed jurisdictions in some of our Regional Offices to obtain an optimum balance between intake in any one Region and staff assigned to that Region. We have shifted jurisdictions to minimize travel costs within our Regional Offices. At the present time, we believe that the travel burden is more equitably distributed among the Regions than earlier in the program.

(3) Third, we have streamlined our Headquarters operation. Since fiscal year 1984, we have cut the OGC Headquarters staff by 26%, including the reductions projected for fiscal year 1989. I feel that this restructuring of the national office will enable a more efficient use of resources.

It is essential for the Office of the General Counsel to increase productivity so that its caseload can continue to be processed in a timely manner. The table below summarizes intake and available staff during the four-year period from fiscal year 1984 through fiscal year 1987, together with a factor of cases per position and the yearly percentage increase in this factor.

Fiscal Year	Intake	Authorized Positions	Cases/Position	Yearly Increase
1984	5,583 cases	172 FTE	32.46	+ 1.0%
1985	5,696 cases	167 FTE	34.10	+ 5.1%
1986	5,524 cases	152 FTE	36.34	+ 6.6%
1987	6,107 cases	145 FTE	42.12	+ 15.9%

I would like to sound one note of caution. I believe that we have reduced our staffing level to a configuration that is about as lean as possible. I am concerned that further staffing cuts will be detrimental to the ability of the Office of the General Counsel to sustain the timely processing of its cases. In addition, further staffing cuts would likely inhibit our chances to achieve additional productivity increases.

Question -

> You mention that your case intake increases somewhat during non-election years and returns to a level of 5,500 cases annually during election years. Why is this the case? Also, if we are talking about Presidential election years, then we are talking about a reduced caseload every four years -- is this correct?

Answer -

When we are speaking of election years, we are talking about the bi-annual election period. We are not referring only to Presidential election years. We discovered this apparent pattern to our intake during fiscal year 1985, and it has been confirmed every year since. Intake in fiscal year 1984 totalled 5,583 new cases, and 5,524 new cases were received in fiscal year 1986. We have experienced increases in intake in the odd-numbered years -- 5,710 new cases in fiscal year 1983, 5,696 new cases in fiscal year 1985, and 6,107 new cases in fiscal year 1987. We project this trend to continue in fiscal year 1988, when 5,500 new cases are projected to be received, and in fiscal year 1989, when 5,650 new cases are projected to be received.

We do not believe that these fluctuations are merely coincidental. This pattern of intake is also seen in the private sector, although the fluctuations are more significant. It has been suggested that employees and labor organizations tend to focus their activity in other areas during the period leading up to an election. Consequently, in the period immediately following an election, case activity accelerates for a time to catch up with the cases which were deferred temporarily prior to an election. At the present time, our intake in fiscal year 1988 is ahead of the comparable total of a year ago, but for the full fiscal year we still project a slight decrease before the expected upsurge in intake projected for fiscal year 1989.

Question -

How long is it taking you to process a case, on average?

Answer -

The Office of the General Counsel, through its Regional office structure, processes both representation and unfair labor practice (ULP) cases.

With respect to representation cases, the median amount of time for the conduct of an initial investigation was 45 days in fiscal year 1987. The comparable time period for this fiscal year is 47 days. Hearings and elections were scheduled on an average of 36 days after issuance of notice of same, as appropriate. This time frame increased slightly to 40 days in the first four months of fiscal year 1988. Decisions and Orders in representation cases were issued an average of 84 days after the close of the hearing in fiscal year 1987. During the early months of fiscal year 1988, this time frame was reduced to 61 days.

With respect to ULP proceedings, the median time for completion of initial investigations, measured from the date of the filing of the charge was 69 days in fiscal year 1987, increasing slightly to 74 days in early 1988. When the investigation resulted in the issuance of a complaint, a hearing was scheduled a median of 57 days later (62 days in fiscal year 1988). This time period is not exclusively within the control of the Office of the General Counsel because an Administrative Law Judge must be assigned to hear, and schedule, the case.

When the Regional Director dismisses a charge without issuance of a complaint, the Charging Party is entitled to appeal that decision to the General Counsel in Washington.

The median age for disposition of ULP appeals, measured from the date of receipt was 60 days in fiscal year 1987. In contrast to the stability or slight increases seen in the other time frames through the first few months of fiscal year 1988, the average time for processing such appeals rose to 111 days. The increase is projected to be short term in nature, and reflects the temporary loss of one of the four nonsupervisory attorneys in our Office of Appeals. Although a slight increase is projected in this time frame for the entire fiscal year (comparable to the increases being seen in the other aspects of ULP processing), the current time frame is unusually high and is not anticipated to continue indefinitely.

These six time frames cover case processing activity within the Office of the General Counsel. The average time frames above do not reflect the time required by the Authority for rendering final decisions. As the Chairman has testified, at the present time the Authority is meeting a six-month time frame in the processing of all of its cases.

Question -

> You mention that in unfair labor practice cases in fiscal year 1987, roughly three-fifths of all charges found to have merit are settled prior to the issuance of complaint, and voluntary settlements were obtained in nearly three- fifths of all cases where complaints were issued. Has this been true in recent years?

Answer -

Yes. These patterns were consistent with experience in previous fiscal years. In fact, our settlement rates were somewhat lower in fiscal year 1987 than our previous experience because of the influx of approximately 225 cases involving one issue dealing with "names and home addresses." Settlements were only obtained in a few of these cases -- 24 of the 235 with dispositive action during fiscal year 1987 (ten prior to complaint issuance and 14 after complaint issuance).

In fiscal year 1987, voluntary settlement was obtained prior to complaint issuance in 61.5% of all cases determined to have merit. Excluding "names and home addresses" cases, this factor would have been 67.5%. Experience in 1987 was comparable to experience seen earlier -- 68% in fiscal year 1982; 65% in fiscal year 1983; 66% in fiscal year 1984; 68.5% in fiscal year 1985; and 69.5% in fiscal year 1986.

Voluntary settlements were obtained in 59.5% of all complaints in fiscal year 1987. Excluding "names and home addresses" cases, this factor would have been 75.5%. The adjusted factor of 75.5% was comparable to experience seen earlier - 71% in fiscal year 1982; 69.5% in fiscal year 1983; 72.5% in fiscal year 1984; 80% in fiscal year 1985; and 73% in fiscal year 1986.

U.S. TAX COURT

STATEMENT OF HON. SAMUEL B. STERRETT, CHIEF JUDGE

ACCOMPANIED BY:
PAUL NEJELSKI, ADMINISTRATOR
CHARLES CASAZZA, CLERK OF THE COURT

INTRODUCTION OF ASSOCIATES

Senator DeConcini. We will now hear from the Tax Court, the Honorable Samuel Sterrett.

Judge, we welcome you here. We are pleased to have you with us again today. You can summarize your testimony, Judge Sterrett.

Judge Sterrett. Good morning, Senator.

Senator DeConcini. Good morning.

Judge Sterrett. It is good to see you again, sir.

Senator DeConcini. Nice to see you. I am sorry to keep you waiting, Judge. I know your caseload is burgeoning and you need to get back to work. You do a great job, you guys, I will tell you that with the caseload that you all have down there.

Judge Sterrett. We don't see us being put out of business any time in the near future, I will say that.

On my left is Paul Nejelski, who is the court administrator, and on my right is Mr. Casazza, who is the clerk of the court.

In the interest of preserving your time, sir, we are, of course, complying with your request to submit a written statement and ask that it be included in the record. I would, pursuant to your instruction, highlight some of the remarks in there.

BUDGET REQUEST

For fiscal year 1989, the court requests that its budget be set by Congress at $29,345,000, and that it be authorized to have 350 permanent positions. While the budget request represents an increase of $1,845,000, or 6.7 percent, over fiscal year 1988, $1,225,000, or two-thirds of that amount, represents the cost of installing a chiller and cooling tower. Obviously, this expenditure is a one-time thing, and if we exclude that amount, our percentage increase over 1988 is a modest 2.3 percent.

COURT CASELOAD

From the perspective of our area of responsibility, I am happy to be in a position to bring the committee good news. The Tax Court appears to have turned the corner on the growth of its inventory.

For the first time in 20 years, the inventory is diminishing. There were 83,686 cases pending at the commencement of fiscal year 1987, and 81,549 were pending at the beginning of fiscal year 1988, thus a decrease of 2.6 percent, or 2,137 cases.

I might interject here that the drop off is even more dramatic when we refer to the inventory as of yesterday, which was 70,450. I might say, Senator, that at one point we were up to 84,000. On October 31, 1986, we had 84,000 cases pending, and now we have 70,450. In 17 months, there has been a drop of 13,500 or 16 percent.

As you might expect, the decrease is attributable to several factors. In the past 2 or 3 years, Congress has passed several amendments to the Internal Revenue Code which have proved most helpful.

In the tax shelter area, the new partnership provisions which provide that only the tax matters partner need file a petition, as distinguished from each of the investors, has had a significant effect.

The penalty provisions enacted by Congress to discourage the filing of frivolous petitions has also had its impact. The disallowance of a deduction for interest due on any deficiency in tax attributable to a nonbusiness adjustment has no doubt caused some taxpayers to forego filing petitions.

From the court's perspective, our opinions in several areas, tax shelter opinions and the imposition of penalties for frivolous petitions have certainly had their effect. All in all, 5,775 fewer petitions were filed in 1987 compared to 1986, a decrease of 12 percent.

A second reason for our diminishing inventory is the increased closings, a factor of which the court can be justly proud. Our closings in 1987 hit an all-time high of 45,000, an increase of 7,145. You may recall that in my testimony last year, I set a goal of 45,200 closings. If we can get that close to our 1988 goal of 48,000, we will be very pleased.

Surely, our opinions in the tax shelter area have encouraged settlements. The Internal Revenue Service also deserves credit for a more flexible settlement policy.

INTERNATIONAL CONFERENCE

Turning now quickly to a more general matter, you may recall that I advised the committee last year that the court was sponsoring an international conference of tax courts this May.

I am happy to report to you, sir, the plans for this conference are well underway. Australia, Canada, Colombia, France, Japan, Mexico, West Germany, Ireland, The Netherlands, New Zealand, and Sweden have accepted our invitation to participate. We have yet to hear from some other countries.

Each country will send its chief judge and chief administrator. The format of the conference will be a discussion and an exchange of views on how each country resolves tax disputes between its government and its citizens. We will have interpreters to make the discussion more meaningful. The University of Virginia Law School will serve as the reporter and will prepare a report. Indeed, an issue of the Virginia Tax

Review may be devoted to the proceedings. Hopefully, your Tax Court can make a contribution that transcends our borders.

PREPARED STATEMENT

Mr. Chairman, this completes my summary report, and I would be happy to answer any questions.

[The statement follows:]

STATEMENT OF SAMUEL B. STERRETT

The Tax Court's fiscal year 1989 budget request is for $29,345,000 and 350 permanent positions. This amount represents an increase of $1,845,000 (6.7%) over the fiscal year 1988 appropriation, of which $1,225,000 is for the installation of a chiller and cooling tower. The Court's fiscal year 1989 budget reflects our best judgment with respect to the Court's needs for handling our case inventory. Today I will summarize the reasons for the increase in our budget request. Also, let me direct your attention to our budget submission which contains further justifications for specific program items.

PERSONNEL COMPENSATION AND BENEFITS

During fiscal year 1989, $262,000 will be required to finance promotions and within-grade salary increases for employees who will be eligible for advancement to the next step in salary.

OTHER COST ADJUSTMENTS

The Court will require $358,000 to cover other cost adjustments for fiscal year 1989. This amount includes:

(a) $193,000 for annualization to allow the Court to continue staffing levels approved in prior years.

(b) $165,000 for increased GSA rent charges for fiscal year 1989.

NEW REQUIREMENTS

In fiscal year 1989, the Court is requesting $1,225,000 in new requirements. This amount is needed to cover the cost of installation of a chiller system including cooling towers for the Tax Court Headquarters Building in Washington, D.C. This project is being initiated as a result of consultations between the Court and GSA as to the best method for solving the heating and cooling problems encountered in certain areas of the building. These funds will be transferred to GSA upon approval of the project by the Public Works Committees and the Court's Appropriation Committees. GSA has recommended that the Court include the funding request in the fiscal year 1989 budget. GSA is in the process of obtaining approval for the project from the Public Works Committees. The Court is requesting that these funds be made available until expended.

As you can see, of the $1,845,000 increase that the Court is requesting, 66% is for the Chiller project; 25% is for salaries and benefits necessary to keep the Court operating at current levels; and 9% is for increased costs due to rent increases. The Court is not requesting any additional personnel.

FISCAL YEAR 1989 OBJECTIVES

In fiscal year 1989, the Court's objectives are as follows:

1. To absorb the costs associated with inflation. No additional funds are requested for fiscal year 1989 to cover projected increases due to inflation.

2. To maintain travel and transportation costs at fiscal year 1988 levels. This action will have no effect on the number of trial sessions that the Court will hold in fiscal year 1989. Savings from increases in transportation charges will occur from Court sessions that do not continue for a full session, e.g., a one-week session that is completed in four days instead of the scheduled five days.

3. To continue the training program for presidentially appointed judges. The Court is requesting for fiscal year 1989 the same level of funding that was approved in fiscal year 1988 which was $19,000.

4. To continue the very important automation program that the Court began in fiscal year 1986. This includes the automated legal research data bases for verification of citations, the production and printing of opinions, preparation of statistical reports, and the Court's administrative areas.

THE COURT'S WORKLOAD

Any discussion of the Court's workload must emphasize that, at the present time, the Tax Court handles approximately 90% of all substantive tax litigation, exclusive of collection actions, in the federal courts. As the Committee knows, it is the only court where a taxpayer can litigate his case without prior payment of a tax deficiency determined by the Internal Revenue Service. Proceedings in the Tax Court are begun by the filing of a petition by a taxpayer who has received a notice from the Commissioner of Internal Revenue determining a deficiency in tax. The Tax Court has no control over the deficiency notice procedure.

In fiscal year 1970, 7,390 new cases were filed in the Tax Court. In fiscal year 1975, the number of new cases filed was 11,213. In fiscal year 1987, 42,623 new cases were filed, which, fortunately, represents a decrease of 5,775 cases or 12% from fiscal year 1986.

On September 30, 1977, the Court's inventory was 21,298. By the end of fiscal year 1986, the inventory had increased 293% to 83,686 cases. However, during fiscal year 1987, the Court had a three percent decrease in its overall inventory to end the year with a pending inventory of 81,549 cases.

As of January 31, 1988, the number of new cases filed with the Court for fiscal year 1988 is below the level in fiscal year 1987. Only 9,093 cases were filed in the first four months of fiscal year 1988. This is 28% below last year's filings. The Court is projecting that only 40,000 cases may be filed this fiscal year based on the number of cases filed thus far.

The number of cases closed through January 31, 1988, is 15,959. Based on this number, the Court now projects that over 48,000 cases may be closed during fiscal year 1988.

The Court expects the number of petitions filed to continue decreasing as a result of various factors, including the use of test cases in the tax shelter area. Other factors contributing to the reduction in the number of petitions filed with the Court include: the partnership provisions contained in the Tax Equity and Fiscal Responsibility Act of 1982 which eliminated the need for individual investors to litigate their particular investment; the settlement policy of the IRS Chief Counsel's Office which encourages the resolution of cases prior to commencing an action in the Court; the substantial reduction in the deductibility of interest on deficiencies in a non-business setting which was part of the Tax Reform Act of 1986; and the Court's efforts to assess damages against tax protesters who continually raise issues which they must know will not prevail in the Court. The Court believes that these damage assessments have helped discourage frivolous and groundless actions.

I want to emphasize that the inventory does consist mostly of recently filed cases. Approximately 80% of the regular cases that go to trial are disposed of within 14 months from the date of trial. Approximately 98% of the small tax cases which are tried are disposed of within 5 months from the date of trial. While the Court takes into account the wishes of the parties, it is increasingly encouraging the parties to go to trial and less frequently granting motions for continuance unless detailed reasons are given. Of course, this is only after the Court's efforts to have the parties settle their dispute have proved unsuccessful.

TAX REFORM ACT OF 1986

The effects of the Tax Reform Act of 1986 on the Court are not fully known at this time. However, some changes are anticipated.

(a) The necessity to distinguish between passive and active gains and losses will undoubtedly lead to litigation in the Court.

(b) The Act will, we believe, have a dramatic effect in reducing the creation of new shelters, but its impact on existing shelters now pending in the Court will be minimal.

As required by the Tax Reform Act of 1986, the Court sent to the House Ways and Means Committee and Senate Finance Committee a report on the inventory of Tax Court cases during calendar year 1987.

THE COURT'S PRODUCTIVITY

In its continuing effort to decrease the inventory, the Court as a whole has increased its productivity. The number of cases closed by the Court increased from 6,610 in fiscal year 1970, to 10,374 in fiscal year 1977, and 37,937 in fiscal year 1986, and to 45,082 cases in fiscal year 1987. The fiscal year 1987 closings represent a 19% increase (7,145 cases) over fiscal year 1986. To a substantial degree, the increase in the number of cases closed is due to the issuance of opinions in shelter cases where a decision in one test case may lead to the settlement or closing of several hundred cases, the increased scheduling of cases for trial, and a more flexible settlement policy of the Internal Revenue Service.

SMALL TAX CASE PROCEDURES

Under the small tax case procedures, which apply only if elected by the taxpayer, trials are conducted in an informal and prompt manner. The rules of evidence are relaxed; neither party is required to file a brief; and neither party may appeal. In 1984, Congress increased the jurisdictional limit for the small tax case to $10,000 for each taxable year.

The Court currently is authorized seventeen special trial judges who are generally assigned to handle the small tax case work. They are also assigned certain types of regular cases, but in such cases their findings and opinions are reviewed and adopted or modified by a presidentially appointed judge of the Court.

Generally speaking, the number of cases in which the small tax case election has been made has increased steadily since the provisions became law. However, a slight decrease was experienced in fiscal year 1987 which was consistent with the decrease in regular case filings during the year. In fiscal year 1971, 1,349 small tax cases were filed; in fiscal year 1977, 3,487 small tax cases were filed; in fiscal year 1986, 13,172 small tax cases were filed; and in fiscal year 1987, 12,561 cases were filed, a decrease of 611 cases from fiscal year 1986.

The small tax case procedures, as conceived by Congress, contemplated that the cases would be heard and disposed of promptly. Expeditious handling of these small tax cases helps maintain confidence in the efficiency and fairness of the revenue and judicial systems. Delays not only tend to undermine such confidence in the efficiency and fairness of the revenue and judicial systems but defer the availability to the Treasury of the revenue ultimately found to be owed.

EXPEDITED PROCEDURES

In July 1985, the Tax Court introduced new procedures which allow cases of special significance to be scheduled on an expedited calendar. Under the new procedures, at any time after a matter is at issue, the parties are permitted to file a Joint Motion for Expedited Consideration which must set forth specific and compelling reasons for invoking the special measures.

When the Joint Motion for Expedited Consideration is filed, the Chief Judge considers the request. If the Chief Judge does grant it, the case is assigned to a judge who, at the time, is able to treat the matter on an accelerated basis. The assigned judge will contact counsel for the parties and set the trial for the earliest possible date. The judge's goal is to render a decision approximately six months after final briefs are filed. Under ideal circumstances, in which a trial is promptly held and briefing is timely completed, a decision will be handed down within a year after the case is at issue.

To the Court's disappointment, this procedure has been invoked only a few times. The Court continues to be open to additional requests for use of this special procedure.

LOS ANGELES OFFICE

During fiscal year 1985, the Court opened its only regional office in Los Angeles, California. Los Angeles was selected because of the number of cases being filed from this area of the country. At the time, almost 30 percent of the Court's total cases were originating there. The office is staffed with one Special Trial Judge and four employees. During fiscal year 1986 the Los Angeles Office closed 1,706 cases, and, during fiscal year 1987, an additional 1,905 cases were closed.

SUMMARY

While manageable, the Tax Court caseload is substantial and will continue to be so because of its unique jurisdiction. The Tax Court's goal is to resolve cases expeditiously while giving careful consideration to the merits of each matter. The Court is also committed to providing taxpayers with a convenient forum for trial and simplifying the presentation of disputes involving relatively small amounts of tax dollars. The Court's small-tax-case procedures, the opening of a California office, and the use of bench opinions were implemented to achieve these goals. Similarly, the Court's expedited procedures seek to provide a prompt resolution of significant issues in the field of federal taxation.

Certain of these measures, such as the small-tax-case procedures and the use of bench opinions, have proven to be effective tools for expediting the resolution of disputes before the Court. Other measures are more recent innovations whose success cannot be fully evaluated at this date. The goals, as always, will remain constant as the Court endeavors to function as a safety valve in the self-assessment system, to assure a uniform interpretation of the Internal Revenue Code, and to provide a national forum for the resolution of disputes between the taxpayers and the Internal Revenue Service.

INTERNATIONAL CONFERENCE OF COURTS WITH TAX JURISDICTION

Before concluding my statement, I would like to bring your attention to two other items of interest. The first is the international conference of courts with tax jurisdiction which will take place May 16 - 18, 1988. In April of last year I advised you by letter that the Court would like to host this conference and I want to inform you that we are currently expecting at least eleven nations to be represented in addition to the United States. These countries include Australia, Canada, Columbia, France, Federal Republic of Germany, Ireland, Japan, Mexico, Netherlands, New Zealand, and Sweden. Some of the topics to be discussed are the jurisdiction and organization of these courts; effective disposition of cases; comparative and international law questions; and the use of data processing. By holding this conference we hope in some small measure to contribute to the fair judicial resolution of tax disputes in other countries.

TAX MEDIATION INSTITUTION

One other important item of particular concern to the Court is the President's proposal to create a private mediating institution to reduce the inventory of cases before the Court. This proposal was contained in the President's fiscal year 1989 budget request submitted to Congress. This proposal was not discussed with the Court before presentation to Congress.

Before a definitive proposal is made, it is difficult to comment meaningfully on the proposal. One does have to wonder, however, whether the tax collection process, a classic governmental activity, should be delegated in any respect to private interests.

CONCLUSION

Between fiscal years 1977 and 1987, the personnel level of the Court increased only 69%. In contrast, the number of cases filed from fiscal year 1977 to 1987 increased over 245% and the number of cases closed increased over 335% during the same time period. Thus, the productivity of the existing personnel has increased significantly over the past few years.

The Tax Court generates funds for the United States Treasury. We are proud that during fiscal year 1987 we achieved our goal of having case closings exceed case filings. With adequate support, we expect to reach that goal again in fiscal year 1989. The Court must have adequate funds and resources to manage the pending inventory and meet future challenges. The Commissioner has notified the Court that the Internal Revenue Service has thousands of proposed deficiencies in the audit process concerning tax shelters and tax protesters.

Unlike many other Government agencies with multiple programs, the Tax Court has only one program--the judicial resolution of Federal tax cases. Whenever appropriations are decreased, the primary area in which the Court is able to reduce its expenses is the amount of travel needed to hear cases. Only 3% of our cases are heard in Washington, D.C.; 97% are heard in other locations throughout the country. The Court's statute requires that sessions be held *with as little inconvenience and expense to taxpayers as is practicable.* 26 U.S. Code 7446. If the Tax Court does not travel and hold trial sessions, the inventory will begin to increase once again and the funds due Treasury will not become available.

During fiscal year 1987, the dollar amount of deficiencies ultimately determined by the Court to be owed by taxpayers was $891,009,990, over 32 times the amount of our current fiscal year 1988 budget appropriation. The 81,549 case inventory in the Tax Court at the end of fiscal year 1987 involved deficiencies determined by the Internal Revenue Service in the total amount of $20,243,798,830. To the extent of taxes owed, the revenue ultimately involved in these cases cannot be collected until they have been heard and decided or otherwise disposed of. Delays in closing these cases deprive the Treasury of revenues which are due. To the extent that the determined tax liabilities are not in fact owed, they create financial uncertainties for corporations and individuals in making business, investment, and other decisions. The Court's role is thus a critical part of the revenue and tax systems. Its action on cases results in the collection of funds for the Treasury. Just as importantly, however, it resolves taxpayer disputes with the Government in a professional, expert, objective manner.

Mr. Chairman, that concludes my statement. I will be pleased to answer any questions the Committee may have.

INTERNATIONAL CONFERENCE

Senator DECONCINI. Judge Sterrett, what do you anticipate getting from that international conference? What are you hoping to have after it is all over, besides some interchange and meeting with some of your colleagues in other countries?

Judge STERRETT. I think, frankly, one can say, in this room, we will be more in a position of giving than receiving. That is, I think that we have more to give to them than they have to give to us in terms of the judicial resolution of disputes between the taxpayer and the Government.

I don't know what we will get out of it from a selfish point of view, other than just more of an understanding of their problems.

Senator DECONCINI. How much is it going to cost us?

Judge STERRETT. We have $25,000.

Senator DECONCINI. That is all?

Judge STERRETT. They are paying their own way over here. We are not sending any tickets.

PRIVATE MEDIATION SERVICE

Senator DECONCINI. Judge, on page 6 of your statement, you express your concern over the President's plan to use a private mediating institution to reduce the inventory of cases before the court. You say that this proposal was not discussed with the Tax Court.

In view of your testimony that shows your case inventory is dropping and that the number of cases filed with the court is dropping, what possible reason would the President have at this time to interject the idea of a private tax mediation agency?

Judge STERRETT. I can only speculate that the only reason is that the OMB was not aware of our diminishing inventory. I really don't know why. I called Mr. Utt over there, and he said that it was kind of a lower echelon idea, insofar as they refer to the Tax Court, and he didn't know if it applied to predocketed cases or postdocketed cases.

Senator DECONCINI. It is the President's proposal that asked us to institute this new private tax mediation agency instantly or very quickly. It occurs to me that perhaps we should address this question to OMB.

Judge STERRETT. I believe so, sir.

Senator DECONCINI. If the tax mediation proposal is approved by Congress and put into effect in 1989, what effect will that have on your resource requirements; have you analyzed that?

Judge STERRETT. No, sir; we have not in that connection. The idea came up late in our budget process. If you assume that the mediation service should not get into questions of law and try to make precedent as a matter of law, if you just limit their use to valuation cases, how much is a painting worth or something like that, or valuation of real estate, the impact wouldn't be that big, maybe 1,000 cases.

Senator DECONCINI. That is all?

Judge STERRETT. Yes.

Senator DECONCINI. I realize that you are just estimating, but it is not that big if you limit it to just questions of fact and not of law.

Judge STERRETT. Absolutely. Of course, it is a good idea to have some alternate dispute resolution with respect to valuation, we agree with that principle, but it must be under control of the court, in our view, and we are looking at being able to hire masters or something like that to resolve valuation cases.

Senator DECONCINI. Do you ever do that now?

Judge STERRETT. Twice we got up to the brink of having our arbitrators appointed, and the case got settled.

Senator DECONCINI. So you have that authority to use it, but you just haven't yet.

Judge STERRETT. We haven't had a defined process or procedure, and we should, and we will.

Senator DECONCINI. Do you think that that would be a cost savings?

Judge STERRETT. Yes, sir; but I don't think that it would be a significant cost savings, but obviously it would have some impact.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. I will leave that to your judgment.

I have some questions that I will submit, Judge, and you and your staff can answer, along with Senator Domenici.

Thank you very much for the fine job that you are doing, and please tell your colleagues down there that we realize that your hands are full.

Judge STERRETT. Thank you, Senator, and I appreciate the opportunity to be here.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

DETERMINATIONS OF DEFICIENCIES

Senator DeCONCINI. On page 7 of your statement, you say that during fiscal year 1987 the dollar amount of deficiencies ultimately determined by the Tax Court to be owed by taxpayers was $891 million. You go on to say that end-of-year deficiencies determined by IRS totalled $20.2 billion. Perhaps there is no relationship between your ultimate determinations and your end-of-year/IRS estimates of deficiencies.

Tell us about what the IRS determinations of deficiencies were for fiscal 1987 and how much of that you ultimately found to be owed by taxpayers? Give us your data for the past three years as to what percentage of the amount IRS says is owed, ultimately is determined to be owed by the Tax Court.

Judge Sterrett. The data you requested on determinations and redeterminations by the Court follows:

CASES CLOSED

FISCAL YEAR	IRS DETERMINED	COURT REDETERMINED	GOVERNMENT RECOVERY RATE
1985	$2,326,426,650	$760,014,200	32.7%
1986	$3,340,596,820	$758,863,980	22.7%
1987	$3,150,068,860	$891,009,990	28.3%

TRAINING OF JUDGES AND LAW CLERKS

Senator DeCONCINI. Judge Sterrett, on page 13 of your justification you say that the Court will continue its training program for the Presidentially appointed judges and that in fiscal 1988 you have inaugurated a comprehensive training program for training law clerks. Training includes case management techniques; evidence; and court procedures.

Why in the world do you need to train Tax Court judges and law clerks in these times of tight budgets? Doesn't law school and prior experience on the bench serve as adequate training for most of your staff and judges?

Judge Sterrett. We feel that continuing education is an important part of any organization. Every state has a formal education program for its judges. The Federal Judicial Center with a current budget of approximately 12 million dollars has provided continuing education for the judges in the judicial branch of the Federal government for the last 20 years. Since the Tax Court is not in the judicial branch, our judges are not normally eligible to attend the Federal Judicial Center programs.

Continuing education for judges is necessary because some topics are not taught in law school such as judicial ethics or opinion writing. Other topics such as the law of evidence have evolved over the last thirty or forty years. Computers have had a dramatic impact on the legal profession in the last decade. No one would want to be operated on by a surgeon whose only educational experience had been 40 years ago. We feel that Tax Court judges similarly need to be updated in the tools of their trade.

We have found that law school does not completely prepare our clerks for working on the Court. Students can not take all of the courses which might be useful. Also, law school professors may lack the practical knowledge of how the Tax Court operates. Or there may be new developments such as changes in the Court's Rules of Practice and Procedure. The Court's program for law clerks is without additional cost to the government. The judges of the Court have prepared and given a series of lectures for our approximately 50 law clerks. The topics have included: burden of proof in tax litigation; IRS audit and appeals procedures; and partnership litigation rules along with a variety of other subject matters.

Senator DeCONCINI. How much do you have in your budget for FY 1989 for such training and what would be the effect on your operations if we were to cut it back a bit next year?

Judge Sterrett. Beginning with our fiscal year 1986 budget request, the Court has requested $19,000 each year to train our Presidentially appointed judges. As a practical matter, we have expended only about half of this amount. If these funds had not been made available, a twelve-part video library on the Tax Reform Act of 1986 would not have been purchased for our judges' use; several guest speakers who gave seminars on evidence, judicial ethics and opinion writing would not have been heard; and our judges would not have been able to attend the Harvard Law School special summer program where they have taken courses in federal jurisdiction, legal history, pension plans, and jurisprudence.

Any reduction in the Court's training program funds would not have an immediate impact on the Court and certainly our programs would be able to continue. However, we believe that our relatively modest request is an investment in the future, and a guarantee of quality in the work performed by our judges because the training allows them to keep abreast of changes in the law, developments in computerization, and issues of jurisprudence.

CHILLER INSTALLATION

Senator DeCONCINI. By far your biggest proposed increase over last year is the $1,225,000 requested to install a chiller/air conditioning system in the U.S. Tax Court Building in Washington, D.C. On page 16 of your justifications you indicate that GSA has recommended that the Court include the funding for this project in the Tax Court budget, rather than put it in the GSA repair and alteration budget within the Federal Buildings Fund. Your justifications also show that GSA has made several attempts to improve your air conditioning problem in the building.

Why should you have to pay for this air conditioning project -- why shouldn't we just direct GSA to repair your air conditioning problem in the GSA Federal Building Fund account. After all, you do pay SLUC and should get the services from GSA.

Judge Sterrett. Although the Court pays SLUC, the chiller project could not be funded by GSA unless it were approved as part of the regular prospectus cycle in which the Tax Court's project would compete with all other projects in the country for which GSA funding is being sought. Because the Court agreed to request funds for the chiller system in the Court's budget, GSA is able to prepare a prospectus for the project and submit it separately to Congress.

TRAVEL CUTS

Senator DeCONCINI. Judge, as you know, this Committee and the Congress as a whole, called for substantial cuts in travel in most agencies in fiscal 1988. Your agency was no exception. This Committee expected the Tax Court to be able to cut travel in fiscal 1988. I realize that travel is an important part of your operations, but cuts should still be made.

Your budget justifications show that your travel budget increased by 48 percent over fiscal 1987 and stayed the same in fiscal 1989.

Why haven't you been able to achieve any savings in travel in fiscal 1988?

Judge Sterrett. As you are aware, the Tax Court is a circuit riding court. Only three percent of our cases are heard in Washington, D.C.; the other 97% are heard in 80 locations throughout the nation. The Court's statute, 26 USC 7446, mandates that court sessions must be held *with as little inconvenience and expense to the taxpayer as is practicable*.

Our request in fiscal year 1987 was $1,389,000; actual expenditures were $673,000; and the remaining $716,000 was returned to the Treasury. For fiscal year 1988, the Committee reduced our travel request by $200,000, and I directed that our request be further reduced to the $1,000,000 level. This is the level that is being requested for fiscal year 1989. As you can see, the Court has limited its travel estimates according to the Committee's direction. In fiscal years 1988 and 1989, our travel budget estimates have been limited to $1,000,000 for each year, a 28% reduction from the FY 1987 budget request. The Court continues to propose 400 weeks of trial sessions at this level. Additional travel expenses will also be financed, including special sessions of the Court and moving expenses for recently appointed judges.

When a session is scheduled, a judge is expected to hear cases for the entire length of time, primarily one or two weeks. However, when cases assigned to be tried during the session are settled by the respondent and the petitioner before the case is summoned for trial, sessions may be concluded before the full scheduled number of days is used. An example would be a one week session with five trial days scheduled. As a result of cases being settled, the session may be curtailed to only two trial days. Nevertheless, for planning purposes, the Court must budget for the full five days even though only two days may actually be used. Numerous sessions do span the full scheduled time period whereas others do not. The Court should be ready and have the resources for all sessions as if no session will conclude early. We do not know how much of our requested amount will actually be used; but, as noted, we must budget for 400 weeks of scheduled trial sessions. All unused funds are returned to the Treasury at the close of the fiscal year.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

CHILLER AND COOLING TOWER

Senator DOMENICI. The Court's fiscal year 1989 request includes an increase of $1,225,000 to install a chiller/air conditioning system in the U.S. Tax Court Headquarters Building in Washington, D.C. Why are these funds being included in the Court's budget, to be transferred to the GSA, rather than in GSA's budget?

Judge Sterrett. Last fall, the Tax Court represented to GSA that the Court would request funding for the chiller system in the Court's fiscal year 1989 budget request. The Court made this decision because it had determined, after consultations with GSA, that there is great need for a system that will adequately and efficiently dehumidify and cool the building. Less comprehensive efforts to address the problems have not succeeded.

Had the Court submitted a request for a chiller system for funding by GSA, that project would have been competing with all the other prospectus projects requested by the various Federal agencies. Over the last several years, the Court and GSA have made many attempts to solve the heating/cooling problems in the U.S. Tax Court Building. In view of the time that has elapsed and the lack of success of these other measures, the Court would like to proceed as quickly as possible on the new system. To avoid delay, the Court agreed to request the funding for this project. Hopefully, it will be approved in due course by the Public Works Committees.

Senator DOMENICI. You mention that the GSA is in the process of obtaining approval for the project from the Public Works Committee. Do you know the status of that request?

Judge Sterrett. As of March 18, 1988, the prospectus was undergoing final review and approval at GSA's Central Office before being submitted to the Office of Management and Budget and then to the Public Works Committees.

Senator DOMENICI. You also mention that preceding this request, various improvements were made by GSA and the Court to correct the cooling problem in the building. What did these efforts to remedy the problem cost and who paid these costs -- the Court or GSA?

Judge Sterrett. Since January 1975, when the Court first occupied the building, the Court has paid approximately $12,000 for purchase and installation of window liners to impede solar penetration and for a solar film study that led to GSA's recommendation that the Court install a chiller system.

GSA has conducted other studies and repairs on the Tax Court Building which included balancing the entire system, and repairing and improving deficiencies in controls, ductwork, and mechanical equipment. However, the Court is not aware of the costs which GSA expended on these studies and repairs.

NUMBER OF TAX SHELTER CASES

Senator DOMENICI. You mention that one of the factors contributing to the reduction in the Court's inventory is the use of lead cases in the tax shelter area. Of the Court's overall inventory (83,686) at the end of fiscal year 1986, what number of these cases were tax shelter cases?

Judge Sterrett. At the conclusion of fiscal year 1986, 55 percent of the Court's inventory was shelter cases.

Senator DOMENICI. What was the number by the end of fiscal year 1987?

Judge Sterrett. At the end of fiscal year 1987, the number of shelter cases increased to 60 percent.

TRAINING PROGRAM

Senator DOMENICI. What is the estimated cost of the Court's training program for fiscal year 1988?

Judge Sterrett. The Court's estimates that it will spend $19,000 on training, which has been the level of the Court's request since fiscal year 1986.

Senator DOMENICI. What is included for the training program in your fiscal year 1989 request?

Judge Sterrett. The training program for our judges includes various guest speakers and outside programs such as the Harvard Law School special summer program. Lectures to our law clerks are prepared by our judges at no cost to the Government.

INFLATION ABSORPTION

Senator DOMENICI. You say that the fiscal year 1989 request requires the Court to absorb the costs associated with inflation. What are these costs and what is the total amount you will be required to absorb?

Judge Sterrett. During the preparation of the Court's budget request for fiscal year 1989, I requested that all increases be kept to fiscal year 1988 levels, if possible, and, that if costs could be absorbed by the Court without jeopardizing its mission, those costs should be absorbed. I reviewed the fiscal year 1989 request and concluded that the Court could absorb the $170,000 cost associated with inflation without a detrimental effect on the Court's program at this time.

AUTOMATION

Senator DOMENICI. You mention that in fiscal year 1988, the Court will continue to develop its automated docket system, to upgrade its word processing capabilities and continue to develop software programs for its personal computers. What amount will the Court spend on these efforts in fiscal year 1988 and what amount is included in the Court's fiscal year 1989 budget for automation requirements?

Judge Sterrett. The Court has $1,263,000 in its fiscal year 1988 budget for automation. Maintenance of equipment and software and customization of existing programs such as the case tracking system, payroll, personnel, and accounting systems will amount to $468,000 this fiscal year. The remaining funds of $795,000 are budgeted for new equipment, software, and training. Funds are budgeted to upgrade our word processing equipment. Other funds have been allocated to link our Library with Lexis, Westlaw, and bibliographic databases, and for preparation of internal Tax Court bulletins. Other projects include providing personal computers to our judges' offices for case management and trial session planning, and training of all staff members in use of the computers. The Court is currently researching programs and hopes to install a bar code system in its public files section during fiscal year 1988. With this system, the file room will be able to locate requested files more quickly, and fewer files will be misplaced.

DEFICIENCY INCREASES

Senator DOMENICI. You note that at the end of fiscal year 1987 although the number of petitions had decreased, the total assessed amount of deficiencies increased. Do you expect this trend to continue?

Judge Sterrett. Since the responsibility for determining a deficiency in the first place is solely the responsibility of the Internal Revenue Service, any answer I give would be speculative.

My speculation is that the amount of deficiencies will continue to increase if the Service continues to concentrate much of their audit activity on the returns with the largest potential for additional revenue.

Senator DOMENICI. Also, do you expect the number of cases disposed by settlement to continue to increase?

Judge Sterrett. Yes. We are continuing to hand down opinions in the tax shelter area that resolve large blocks of cases; and this should continue for the next few years.

Further, we are continuing to place larger numbers of cases on a trial calendar, as well as at an earlier date following the filing of the petition. This has proven to lead to many more closings.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

STATEMENT OF FRANK GEARDE, JR., CHAIRMAN

ACCOMPANIED BY CHARLES W. FLETCHER, EXECUTIVE DIRECTOR

INTRODUCTION OF ASSOCIATE

Senator DECONCINI. We are now going to hear from the Advisory Committee on Federal Pay, the Advisory Commission on Intergovernmental Relations, and the Committee for the Purchase from the Blind and Other Severely Handicapped.

Mr. Frank Gearde, Jr., Chairman of the Committee for Purchase from the Blind and Other Severely Handicapped; Mr. Robert Hawkins, Chairman, Advisory Commission on Intergovernmental Relations; and Mr. Martin Duggan, Chairman of the Advisory Committee on Federal Pay.

Gentlemen, your full statements will appear in the record, if you would like to introduce yourselves and anybody who is with you for the record.

Let's start with Mr. Gearde.

Mr. GEARDE. Thank you, sir. It is a pleasure being here again before you.

I have with me today Mr. Charles W. Fletcher, the Executive Director of the committee.

The committee continued its progress expanding the benefits of the Javits-Wagner-O'Day Act for blind and other severely handicapped in 1987. During the past year, workshop sales to the government under the committee's program were $328 million, an increase of $40 million from the sales in fiscal year 1986. Details of our progress are contained in my prepared statement.

Our appropriation request for fiscal year 1989 is for $862,000, an increase of $12,000 over that approved for fiscal year 1988. The largest increase is in the pay of personnel to provide for the 13th position on the committee staff for which funding is included in the fiscal year 1988 appropriations act. Mr. Chairman, we appreciate your support in obtaining the increased funding for this committee in fiscal year 1988.

The committee's budget request in 1989 represents an austere level of funding for the committee to carry out its responsibility for expanding employment opportunities for the Nation's blind and other severely handicapped.

PREPARED STATEMENT

Thank you, Mr. Chairman, and I would be pleased to answer any questions that you may have.

[The statement follows:]

STATEMENT OF FRANK GEARDE, JR.

Mr. Chairman, we are pleased to appear here today to present the appropriations request of the Committee for Purchase from the Blind and Other Severely Handicapped for fiscal year 1989.

This Committee was created by the Javits-Wagner-O'Day Act (Public Law 92-28) in 1971. The Committee is the successor to the Committee on Purchases of Blind-Made Products established by the Wagner-O'Day Act of 1938. Its purpose is to increase employment opportunities for blind and other severely handicapped, and whenever possible, to prepare these individuals to engage in normal competitive employment. The Committee's primary means for achieving its objective is to direct the Government's procurement of selected commodities and services to qualified workshops serving the blind and other severely handicapped persons.

Under the Act, the Committee has the responsibility for determining which products and services the Federal Government buys are suitable for provision by qualified workshops serving the blind and other severely handicapped. The Committee establishes the prices which the Government must pay for those commodities and services.

The Committee has a full-time staff of twelve persons to assist in the implementation of the program. The staff is responsible for developing recommendations and proposals for the consideration of the Committee. Operationally, it supervises the selection and assignment of new commodities and services; assists in establishing the fair market price and reviewing price changes; verifies the qualifications and monitors the performance of workshops; and serves as a vital link between the workshops and the Federal Government in expanding the program and resolving production problems. In addition, the staff handles all of the administrative functions for the Committee such as developing policies and procedures, initiating and responding to correspondence, preparing the Committee's budget, and performing all of the functions required of an independent Government agency.

During fiscal year 1987, the Committee continued its progress in expanding the benefits of the Javits-Wagner-O'Day Act to increasing numbers of blind and other severely handicapped individuals.

Workshop sales to the Federal Government under the Committee's program during fiscal year 1987 were about $310 million. In addition, sales through the military resale program were $18 million, for a total of about $328 million under this program. This represents an increase of $40 million over the total workshop sales of $288 million in fiscal year 1986.

Blind workshop sales, including those through the military resale program, increased from $177 million in fiscal year 1986 to over $196 million in the past year.

Government sales by other severely handicapped workshops under this program were $132 million, an increase of $21 million over fiscal year 1986.

During the past year, the Committee approved the addition of 40 commodities and 32 services to the Procurement List with a total annual value of $21 million. These additions created new jobs for over 670 blind and other severely handicapped individuals.

As of September 30, 1987, there were 320 blind and other severely handicapped workshops authorized to produce products or provide services for the Federal Government under the Committee's program, a net increase of only one workshop over the year before. Although 18 new workshops entered the program, there were 17 workshops which dropped out.

The Committee staff made 164 inspections of workshops in fiscal year 1987 to ensure their compliance with the Act and the Committee's regulations and to resolve production problems in producing commodities or providing services under the Act. Our appropriations request for fiscal year 1989 will enable us to inspect at least 185 workshops in that year.

Our appropriation request for fiscal year 1989 is for $862,000. This is an increase of $12,000 over the appropriation for fiscal year 1988. The largest increase is in the pay of personnel to provide for the additional position planned in fiscal year 1989.

The Committee's budget request for fiscal year 1989 would provide the resources the Committee requires in carrying out its responsibilities for expanding employment opportunities for the blind and other severely handicapped of this nation.

JUSTIFICATION

Salaries and Expenses

For expenses necessary of the Committee for Purchase from the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, including hire of passenger motor vehicles ($850,000) $862,000

(Independent Agencies Appropriations Act, 1988)

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED
Program and Financing
(in thousands of dollars)

Identification code 95-2000-0-1-505	1987 actual	1988 estimate	1989 estimate
SALARIES AND EXPENSES			
Program by activities:			
Select, price, and assign products and services of the blind and other severely handicapped for supply to the Government. (Total program costs, funded)	765	850	862
Change in selected resources (undelivered orders)	---	---	---
10.000 Total obligations	765	850	862
Financing:			
25.00 Unobligated Balance Lapsing	13	---	---
39.00 Budget Authority	778	850	862
Budget Authority:			
40.00 Appropriation	778	850	862
Relation of obligation to outlays:			
71.00 Obligations incurred, net	765	850	862
72.40 Obligated balance, start of year	46	52	38
74.40 Obligated balance, end of year	-52	-38	-36
77.00 Adjustment in expired accounts	-1	---	---
90.00 Outlays, excluding pay raise supplemental	757	864	864

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Program and Performance

The Committee for Purchase from the Blind and Other Severely Handicapped was established by the Wagner-O'Day of 1938, as amended. Its primary objective is to increase the employment opportunities for the blind and other severely handicapped and, whenever possible, to prepare them to engage in normal competitive employment. In 1989, 18,500 blind and handicapped individuals are projected to be employed in 337 producing workshops. The Committee determines which commodities and services are suitable for Government procurement from qualified nonprofit agencies serving the blind and other severely handicapped; publishes a procurement list of such commodities and services; determines the fair market price for commodities and services on the procurement list; and makes rules and regulations necessary to carry out the purposes of the act. The Committee proposes to have 2,325 items on its Procurement List, and estimated workshop sales of $340 million.

The Committee staff supervises the selection and assignment of new commodities and services, assists in establishing prices, reviews and adjusts these prices, verifies the qualifications of workshops, and monitors their performance.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES
OBJECT CLASSIFICATION (in thousands of dollars)

Identification code 95-2000-0-1-505	19 87 actual	19 88 estimate	19 89 estimate
Personnel compensation:			
111.101 Full-time permanent	410	460	495
111.301 Other than full-time permanent	5	15	13
111.501 Other personnel compensation.	6	12	8
111.801 Special personnel service payments. . . .	0	6	0
111.901 Total personnel compensation.	421	493	516
112.101 Civilian personnel benefits	42	56	60
121.001 Travel and transportation of persons . . .	39	63	63
123.101 Rental payments to GSA	53	62	63
123.201 Communications, utilities, and miscellaneous charges	23	31	29
124.001 Printing and reproduction.	24	50	47
125.001 Other services.	150	77	73
126.001 Supplies and materials	6	10	9
131.001 Equipment	7	8	2
299.001 Total obligations . . .	765	850	862
Total number of permanent positions	11	13	13
Full-time equivalent of other positions	.19	.20	.20
Total Compensable Work Years	10.96	13.20	13.20
Average GS grade	10.75	10.77	10.77
Average GS salary.	$37,273	$35,384	$38,077

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Salaries and Expenses

DETAIL OF PERMANENT POSITIONS

95-2000-0-1-505	1987 actual	1988 estimate	1989 estimate
GS-16	1	1	1
GM-15	1	1	1
GM-14	0	1	1
GM-13	2	2	2
GS-12	3	2	2
GS-11	0	1	1
GS-9	2	1	1
GS-7	1	2	2
GS-6	1	1	1
GS-5	1	1	1
Total permanent positions	12	13	13
Unfilled positions, end of year	1	0	0
Total permanent employment, end of year	11	13	13

ADDITIONAL FUNDING

Senator DECONCINI. Mr. Gearde, last year, you mentioned the increase that we were able to approve here, and then it got cut in half, I am sorry about that, due to the Summit Conference. Your justification doesn't tell us what you did with that half of $25,000 that you ended up getting.

Mr. FLETCHER. We are in the process of hiring an additional person at the support level, and we have upgraded one of our professional positions to a higher level to increase the capability to respond to actions which we are receiving and to comments we are receiving both from private industry and law firms representing private industry. We know that this will speed up our reaction and our ability to process actions to the procurement list much faster.

INCREASE IN TRAVEL

Senator DECONCINI. We note that your travel increased by over 61 percent in fiscal year 1988. Why haven't you been able to do anything to reduce that as we asked many agencies to do last year? The budget resolution called for a 23-percent cut in travel.

Mr. FLETCHER. Yes; we were originally authorized, I think, about $63,000 for travel in fiscal year 1987. This was one of the areas in which we took a major cut to be able to come up with the $100,000 that we had to pay in legal costs in fiscal year 1987. Additionally, we didn't hire one person during that year. Travel was a major area where we were able to recoup the $100,000.

We did not inspect as many workshops as we were scheduled to inspect. The visits by my deputy and myself to major procuring activities and to solve critical problems were limited to two visits, when we normally try to do 15 or 20. The committee meetings, rather than the 8 to 10, were limited to 4. It was not a matter of our choosing to do that, but we were forced to do it to live within the budget.

WORKSHOPS DROPPING OUT

Senator DECONCINI. Speaking of the workshops, we noticed that in your justification you indicate that on September 30, 1987, 18 new workshops entered the committee's program while 17 dropped out. Can you tell us why almost as many dropped out as came on board?

Mr. FLETCHER. We started a program in late in fiscal year 1986 to screen out many of the items on the procurement list that were so-called dead wood or things that were no longer being procured by the Government. Many of those were simply a matter of cleaning up the record where workshops were not actually producing but we were still carrying them on our records.

In a number of other cases, the item was proposed and added to the procurement list for janitorial service or some other service for the Federal Government, and then when the cost comparison was made under A-76, the workshop's price was above that which was comparable and, therefore, it was removed from the procurement list. These are administrative actions. We expect that the numbers dropped this year will be considerably less.

Senator DECONCINI. Can you give us some projections, maybe for the record, of what you think it is going to be next year? Do you have any of that?

Mr. FLETCHER. I have those projections.

Senator DECONCINI. Why don't you just submit them to us, will you?

Mr. FLETCHER. Sure.

Senator DECONCINI. Thank you.

Thank you very much, everyone.

Mr. GEARDE. Senator, if I may please, I would like to note that Mr. Fletcher will be retiring at the end of April after a long and distinguished career with the Federal Government, and this is his last appearance before this committee.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Thank you. You have done great service.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

WORKSHOP PROJECTIONS

Question. Can you tell us what your projections are for new workshops coming online in fiscal year 1989?

Answer. We are forecasting that there will be 337 workshops authorized to produce a commodity or provide a service on the procurement list by the end of fiscal year 1989. This represents a net increase of 17 workshops during the 2 fiscal years 1988 and 1989.

COMPARISON OF BUDGET AND PERSONNEL

Question. Mr. Gearde, your statement indicates that the requested increase of $12,000 over fiscal year 1988 will, in part provide for the additional position planned in fiscal year 1989. Yet your budget justifications personnel tables show that you will have the same number of staff in fiscal year 1989 as you had in fiscal year 1988.

Can you explain this to the committee?

Answer. Although the funds for the 13th position were authorized in fiscal year 1988, the position will be filled for only a portion of the year. Additionally, we are upgrading a professional position during this year. The increase of $12,000 in fiscal year 1989 results primarily from having to pay for these two positions during the whole of fiscal year 1989.

INCREASE IN STAFF

Question. Last year, I asked you what an increase in funding and staffing would do to your goals and objectives. You indicated that the last time you had an increase in staff (fiscal year 1979) your sales rocketed from $92 million in fiscal year 1979 to $288 million in fiscal year 1986.

If we were to add one more staff person in fiscal year 1989 as we tried to do last year, what would be your estimated increase in sales over the next 2 years?

Answer. The addition of one more staff person in fiscal year 1989 would increase estimated sales by about $5 million annually over the next 2 years.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

HANDICAPPED EMPLOYMENT

Question. The committee's fiscal year 1989 budget request projects that 18,500 blind and handicapped individuals will be employed in 337 producing workshops.

How many blind and handicapped individuals do you estimate will be employed during fiscal year 1988? How many were employed in fiscal year 1987?

Answer. We estimate that 17,700 blind and other severely handicapped will be employed in 328 participating workshops during fiscal year 1988. There were 16,012 employed during fiscal year 1987.

WORKSHOP INSPECTIONS

Question. You have testified that committee staff made 164 inspections of workshops in fiscal year 1987 and the fiscal year 1989 request will allow for 185 inspections. How many workshop inspections will be made in fiscal year 1988?

Answer. We plan to conduct about 185 workshop inspections in fiscal year 1988.

ADDITIONAL POSITION

Question. In your testimony, you indicate the additional position is being planned for fiscal year 1989; is that in addition to a position being added in fiscal year 1988?

Answer. We are hiring the additional 13th position in fiscal year 1988. However, that position will be filled during only a portion of fiscal year 1988. The higher personnel costs in fiscal year 1989 are largely the result of having that position filled during the entire year and the upgrading of an existing position on the staff. The number of positions on the staff are planned to be the same, 13, in fiscal year 1989 as in fiscal year 1988.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

STATEMENT OF ROBERT B. HAWKINS, CHAIRMAN

ACCOMPANIED BY:
JOHN KINCAID, ACTING EXECUTIVE DIRECTOR
FRANKLIN A. STEINKO, JR., BUDGET AND MANAGEMENT OFFICER

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. We will go to Mr. Hawkins.

Mr. HAWKINS. Thank you, Senator, for allowing us to testify this morning. On my right is John Kincaid our Acting Director, and on my left is Lin Steinko. I will briefly summarize what we have been doing.

The last 3 years have been productive ones for ACIR. In 1987 we put out 24 publications and policy reports, which was our third most productive year.

During calendar year 1988, we expect to put out 30 publications and policy reports at a time that we think is critical for the Federal system. The Federal Government is pulling out and we have basically de facto federalism reform through the budget process. It is a time when our Commission is spending more time on State-local relations, which are becoming critical.

We have achieved these productivity gains with the following: a 35.8-percent decrease in appropriations since 1985; a reduction in personnel from 27 to 19; and a reduction in leased office space of almost 36 percent.

At the same time, since 1986, we have increased our revenues through the sale of products, books and diskettes, from zero to $250,000 and, this year, at a minimum, we will bring in $275,000 from the sale of materials

Our request of $1,275,000 as approved by OMB is really testing the lower limit of what we need to operate as a Commission. It is $131,000 below the Gramm-Rudman fiscal year 1989 assignment for ACIR. If we are to go any lower than that, we will have to do three things:

One, we will have to come back to the Congress and really ask if the Congress wants us to be a Commission.

The second thing is that we will have to lop off whole sections of research, rather than trying to cut back on individual projects, over a series of areas that we think are critical.

The third thing is that we will have to spend more time on marketing and sales rather than doing what we are really all about, that is, conducting and disseminating fundamental research on issues of intergovernmental relations in the Federal system.

We think this year we will bring in $126,000 to $135,000 in revenues from the States. We believe this is the upper limit of State contributions. The House asked us to try and increase, significanly, State contributions. We have done that, but we think $135,000 is probably the upper limit.

PREPARED STATEMENT

But, more importantly, to go much higher in State contributions starts to destroy the balance on our Commission. We now have a very good working relationship between Federal, State, county, and city officials, and to have State dominance of funding seems to start to destroy that relationship.

That concludes my testimony, Mr. Chairman.

[The statement follows:]

STATEMENT OF ROBERT B. HAWKINS

Thank you, Mr. Chairman. My name is Robert B. Hawkins, Jr. It is a pleasure to be here to discuss the work of the Advisory Commission on Intergovernmental Relations (ACIR). I am the Chairman and one of three citizen members of ACIR.

I would first like to make three brief points about the work of the Commission, especially its diligent efforts to adjust to your appropriations guidelines and the current 35 percent reduction in appropriations since 1985.

ACIR's Unique Vantage Point

The first is the special vantage point occupied by ACIR in our 200-year-old federal system. The Commission consists of 26 members. Because the Commission includes members of the general public, members of Congress, officers of the executive branch of the U.S. Government, governors, mayors, state legislators, and elected county officials, ACIR is uniquely qualified to address the many issues that arise each year in intergovernmental relations. Our federal system needs this unique forum where federal, state, and local representatives can meet as equals to discuss issues, reconcile conflicting interests, and promote cooperation, especially during this period of declining federal aid. Our nation has no other such forum. The value of this forum is reflected in the range of issues examined by ACIR during the past 28 years.

The Commission has published over 325 reports since 1959. A number of these reports were initiated or supported by the federal government, including the Congress, White House, and executive agencies. One-third of these have been policy reports containing several hundred recommendations to all three levels of government. Many Commission recommendations have been embodied in draft federal and state legislation.

Research Program

My second point is that, despite sharp reductions in staff and appropriations during recent years, ACIR has maintained a substantial program of intergovernmental relations research and conferences (see *Appendix A* on p. 1). Indeed, in terms of the number of publications published, calendar year 1987 was the third most productive year in the Commission's 28-year history (see *Appendix B* on p. 18).

The Commission's research program can be divided into three categories: (1) *Continual Monitoring and Information Dissemination*, (2) *Microcomputer Data Services*, and (3) *Topical Research on Current Intergovernmental Issues*. The research program is summarized in *Appendix A* of this testimony. Let me highlight major features of the Commission's research.

Under Category I, *Continual Monitoring and Information Dissemination*, ACIR publishes:

- An annual compilation of governmental finance data called *Significant Features of Fiscal Federalism*;
- Annual *Estimates of State Fiscal Capacity and Tax Effort*;
- An annual public opinion poll relevant to intergovernmental relations;
- A periodic *Catalog of Federal Grant-in-Aid Programs to State and Local Governments*; and
- A quarterly magazine for more than 17,000 readers, called *Intergovernmental Perspective*.

Category II, *Microcomputer Diskette Data Services*, was inaugurated in 1985. We are very pleased with the sales of diskettes and comments from the users of the diskettes. ACIR now produces computer diskettes on:

- State-local government finances.
- City/county government finances.
- State tax resources and utilization.
- State government tax revenue.
- Federal grants by state.

Public officials, researchers, and interested citizens can easily analyze the data because the diskettes take full advantage of the computational power and popularity of *Lotus 1-2-3* and *Symphony* software. The vast majority of requests for the diskettes come from state and local governments.

Under Category III, *Topical Research on Current Intergovernmental Issues*, the Commission published seven major studies and six smaller studies in calendar year 1987. So far, in calendar year 1988, ACIR has published a major study of the effects of federal income tax reform on federal and state personal income tax liabilities and a major report on the organization of local public economies.

ACIR has 25 topical research projects and three research conferences in development. These are detailed in *Appendix A*. I would like to point out that these 28 projects, plus 4 regular monitoring activities, and 5 microcomputer diskette series, are handled directly and through contracts by only six staff researchers. That is, 18 (64 percent) of our topical research projects involve an outside contractor, either as principal researcher or co-principal researcher with an ACIR staff researcher. By increasing our use of contractors considerably, we have been able to introduce significant economies into the research process without reducing quality. I believe that it would be difficult to find any other agency of the federal government that produces so much of such high quality on so many diverse topics, per employee and per dollar, as does the Advisory Commission on Intergovernmental Relations. Added to this are the many telephone and mail inquiries, administrative duties, speeches, conferences, and new marketing activities that must be handled by the researchers.

Complying with Congressional Cost-Sharing Directives and Appropriations Reductions

My third point is that ACIR has made a conscientious and successful effort to comply with Congressional directives (1) to raise revenue from state contributions and the sale of publications and services, and (2) to live within established appropriation limits for fiscal years 1987, 1988, and 1989.

The Conference Committee report on the FY 1986 Commission appropriation directed ACIR to "aggressively pursue contributions from the several states and increase receipts generated from the sale of Commission publications." The cost-sharing program was to be implemented over three years, during which time federal funds for ACIR were slated for substantial reductions. For fiscal year 1987, the Congress provided ACIR with an appropriation of $1,750,000. For the outyears, the conferees directed ACIR to request "not more than $1,390,000 in federal funds for fiscal year 1988, and not to exceed $1,040,000 in federal funds for fiscal year 1989." The Commission requested $1,390,000 for FY 1988. The FY 1988 appropriation was reduced by $12,000 to be taken from travel, for a total FY 1988 appropriation of $1,378,000.

The Commission has conscientiously complied with the Congress' cost-sharing directives. To date, in FY 1988, the Commission has realized $86,900 from state contributions, sales of products, and other sources. On a monthly pro rata basis, this outside income puts the Commission roughly on target to achieve its minimum goal of $275,000 for fiscal year 1988.

We will continue these cost-sharing activities by soliciting increased contributions from the states, selling publications and services, stepping up efforts to secure research grants from outside sources, and continue the kinds of belt-tightening measures reported in previous testimony. To cut costs, we have already purchased all leased equipment, cut the number of full-time employees from 27 to 19 over the last three years, reduced leased office space from 14,600 to 9,400 square feet, purchased labor-saving and cost-reducing equipment, and reduced the number of copies of publications distributed free of charge.

FY 1989 Budget Request

The results of these activities clearly show that the Commission has made substantial progress in complying with the Congress' cost-sharing directives. At the same time, it is urgent to point out that ACIR has reduced personnel and otherwise economized to the point where enactment of the Conference Committee's suggested FY 1989 appropriation of $1,040,000 would cripple the Advisory Commission on Intergovernmental Relations. Such an appropriation would be the boulder that breaks the camel's back.

Given directives to sell publications, for example, it has been necessary to divert some staff to marketing and billing activities, thus reducing resources for research, which is ACIR's primary mission. A deep reduction in our appropriation in 1989 would put ACIR in an impossible bind. If we cut research, we will have less research to market for revenue. If we cut marketing, we will lose revenue to support research and reduce our ability to function as a public forum.

An appropriation less than $1,275,000 for FY 1989 would be extremely detrimental to ACIR's research service because further research staff personnel reductions would require us to cut, not single projects, but whole fields of research. Given that ACIR's research must cover fiscal, economic, institutional, historical, and legal research on very diverse topics, ACIR needs a minimum mix of expert staff analysts both to conduct research and to supervise contract research. ACIR has also made an energetic and good faith effort to solicit contributions from the states. Although contributions increased from $84,750 in FY 1986 to $118,550 in FY 1987, state contributions are not sufficient to compensate for a further reduction in appropriations to $1,040,000 in FY 1989. In other areas of ACIR's work, we have cut costs virtually to the bone. It would be very difficult to make further reductions in office space, equipment maintenance, and GSA administrative support. We believe, therefore, that ACIR has economized in the most efficient and desirable way possible; that is, we have cut costs and maintained productivity. A deep reduction in appropriations for FY 1989 would require us to make deep cuts in research and marketing which, together, would result in a deep reduction in productivity.

The FY 1989 budget request is for $1,275,000. That amount is under the Gramm-Rudman assignment for ACIR, which is $1,406,000. The FY 1989 budget request is $103,000 or 13 percent less than the FY 1988 appropriation, $475,000 or 27 percent less than the 1987 appropriation, and $703,000 or 36 percent less than the FY 1986 appropriation.

Conclusion

During the 1980s, ACIR has cooperated wholeheartedly with efforts by the Congress and the President to economize and reduce spending. We believe that the Commission has behaved in an exemplary fashion. Just as ACIR encourages innovation in the federal system, ACIR has practiced innovation itself. We have reached a critical turning point, however, where an appropriation for FY 1989 less than that requested would cripple ACIR's research program and challenge the very viability of the Commission.

Therefore, I urge you to appropriate $1,275,000 for FY 1989. This appropriation would allow ACIR to maintain a high rate of productivity, high quality research program, and respected utility as a forum for airing and resolving issues in our federal system.

Thank you for this opportunity to describe our mission and our commitment to you. I will be happy to answer any questions.

Appendix A

RESEARCH PROGRAM OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Attached for the information of the Congress is a detailed report on the status of ACIR's research projects. The following projects have been completed thus far in FY 1988.

- *The Organization of Local Public Economies*
- *Significant Features of Fiscal Federalism, 1988 Edition, Volume I*
- *Governments at Risk: Liability Insurance and Tort Reform*
- *The 1986 Federal Tax Reform Act: Its Effect on Both Federal and State Personal Income Tax Liabilities*
- *Measuring State Fiscal Capacity, 1987 Edition*
- *Is Constitutional Reform Necessary to Reinvigorate Federalism? A Roundtable Discussion*
- *Local Revenue Diversification: User Charges*
- *The Transformation of American Politics,* Revised In-Brief Version
- One issue of *Intergovernmental Perspective*
- Two ACIR Microcomputer diskettee seris.

RESEARCH PROGRAM AND PROJECT STATUS REPORT

I. Continual Monitoring And Information Dissemination

Project Name: *Significant Features of Fiscal Federalism, 1988 Edition.*

Initiation:	Approved by the Commission as a report that is updated and issued annually under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations.
Assigned Staff:	Michael Lawson and Clay Dursthoff.
Description:	ACIR published *Significant Features of Fiscal Federalism* periodically (under different titles) from the Commission's inception to 1977. The report has been updated and issued annually since 1977. Among the most widely circulated and used of ACIR's publications, *Significant Features* presents data and information on national, state and local revenues, expenditures, tax rates, public sector employment and earnings, and additional selected topics that vary from year to year. This compilation of information has

proven to be a basic resource for citizens, public officials, and academics who wish to understand or analyze the nation's 50 state-local fiscal systems and that of the U.S. government. To ensure greater timeliness of the data, the annual editions are now issued in two volumes.

Current Status: Volume I of the 1988 edition (114 pp.) was published in December 1987.

Expected Completion: Volume II of the 1988 edition is scheduled for publication in June 1988.

Project Name: *Estimates of State Fiscal Capacity and Tax Effort.*

Initiation: Approved by the Commission in March 1982 under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations. The report is updated and reissued annually.

Assigned Staff: Susannah E. Calkins and Michael Lawson.

Description: This work involves (1) estimating the tax wealth and tax effort of state areas, using ACIR-developed methods and other methods, and (2) appraising the use and underlying theory for the various indexes commonly used to measure fiscal capacity and effort. The data are published in easily usable form, including microcomputer disks.

Current Status: A sizable volume with a discussion of the theoretical bases of the RTS and other measures of fiscal capacity and with figures for 1985 was published in December 1987, as ACIR Report M-156. Production of the 1985 data disks is almost complete. Work on the 1986 data will get under way in the spring.

Expected Completion: The 1985 edition (137 pp.) was published in December 1986. The 1986 edition of the report is expected to be published in December 1988. The data disks for 1985 will be available in March 1988.

Project Name: *Changing Public Attitudes on Governments and Taxes (Public Opinion Poll).*

Initiation: Approved by the Commission in March 1982 under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations. The report is updated and reissued annually.

Assigned Staff: Susannah E. Calkins, John Kincaid, and The Gallup Organization (Contractor).

Description: Since 1972, ACIR has commissioned a public opinion poll on government and taxes. Two questions have been asked every year, the responses to which provide a unique measure of long-term trends in public opinion on federalism and taxes. Other questions are asked at intervals, or are designed to meet the needs of current ACIR research projects. Seven new questions were asked in the 1987 poll, several of which are likely to become regular questions. Polling is done by personal interviews by the Gallup Organization; results are summarized by ACIR staff.

Current Status: Polling for the 1987 survey was done in June 1987, and the publication was issued in September 1987. Letters were sent to about 30 outside specialists on public opinion, federalism, and public finance asking them to review the questions asked in the past and to suggest improvements in the poll. Six outside experts were asked for advice in interpreting the 1987 poll results. The report was completed and issued in September 1987. Work on the 1988 poll is now under way. The process of consultation on questions and interpretations with outside experts, initiated in 1987, will continue in 1988.

Expected Completion: *Changing Public Attitudes on Governments and Taxes—1987* (55 pp.) was published in September 1987; the 1988 edition will be published in early September 1988.

Project Name: *Intergovernmental Perspective* (Quarterly Magazine).

Initiation: Approved by the Commission in 1974.

Assigned Staff: Joan A. Casey and John Kincaid.

Description: This is a periodic magazine of 30-40 pages ordinarily published four times a year. The magazine contains articles, points of view, and research reports about current issues in federalism and intergovernmental relations. Also included are news notes about the ACIR and about publications and microcomputer data diskettes available from ACIR. The magazine serves a constituency of more than 22,000 citizens, public officials, business people, and academics. In addition to its regular articles on current intergovernmental issues, during the next several years *Intergovernmental Perspective* will also feature articles relevant to the Bicentennial of American federalism.

Current Status: One issue has appeared to date in FY 1988; three more are planned (March, June, and September).

Expected Completion: The magazine will appear four times in FY 1988.

II. Microcomputer Data Services

Project Name: State-Local Government Finance Diskettes;
City/County Government Finance Diskettes:
State Government Tax Revenue Diskette.

Initiation: The first series was approved by the Executive Director in October 1985, under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations. The second and third series were approved by the Executive Director in May 1986, and July 1987, respectively. The diskettes are a supplement to, and natural extension of ACIR's annual publication, *Significant Features of Fiscal Federalism*.

Assigned Staff: Michael Lawson and Clay Dursthoff.

Description: ACIR has developed three separate series of governmental finance data diskettes based on the annual survey of governmental finances conducted by the U.S. Bureau of the Census. All three series are designed to take full advantage of the computational power of *Lotus 1-2-3* or *Symphony* software. All diskettes contain specially designed spreadsheets with pre-programmed macro commands that enhance and simplify operations.

Series I: The State-Local Government Finance Diskettes. This series contains data for 200 expenditure and 129 revenue classifications as well as population and income data for all 50 states and

Washington, DC. Researchers can use this series to examine state-by-state revenue or expenditure figures for state and local governments combined; separate databases containing figures for state governments only or statewide aggregates for local governments are also included on each diskette. Data are organized on a fiscal year basis. Diskettes are available for fiscal years 1983-86.

Series II: The City-County Government Finance Diskettes. This series is nearly identical in design to the *State-Local Government Finance Diskettes*. The major difference is that this series contains data on individual city and county general-purpose governments whereas the Series I diskettes contain only statewide aggregate figures for all local governments within a state. Data are available for virtually all U.S. cities with populations greater than 25,000 and counties with populations greater than 50,000. Because the number of local governments represented in this series numbers well into the thousands, the city-county data are organized on a regional basis; there is one revenue and one expenditure diskette for each of 12 regions—24 diskettes in all. Data are available for fiscal years 1984 and 1985.

Series III: The State Government Tax Revenue Diskette. This series contains the same tax revenue information for state governments as the Series I diskettes; the distinguishing feature of the Series III diskette is the availability of state government tax revenue information six months earlier than the Series I diskettes. Data for fiscal years 1983-86 are currently available on a single diskette. This series only contains data for state governments; it does not contain local government data or state-by-state totals for state and local governments combined. Furthermore, only state government tax revenue data are available; there is no information on federal grants, user charges, miscellaneous general revenue or expenditures. State tax diskettes will be updated to FY 1987 in July 1988.

Expected Completion: All three series are updated annually. Updates of the *Series I* diskettes were completed in February 1988; *Series II*, December 1987; *Series III*, August 1987. The completion of annual updates of each series is highly dependent on the date of the availability of the computer data tapes from the U.S. Bureau of the Census.

Project Name: State Fiscal Capacity Diskettes.

Initiation: Approved by the Executive Director in 1986 under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations. These diskettes are a user friendly extension of ACIR's annual publication of information on state fiscal capacity.

Assigned Staff: Michael Lawson and Clay Dursthoff.

Description: The data presented on these diskettes, including previously unpublished detail, can be used to monitor the economic health of states, project future revenues, and compare and contrast tax rates and tax policies in all 50 states. This series of diskettes is based on the data used to produce ACIR's annual publication on the Representative Tax System (RTS), *Measuring State Fiscal Capacity and Tax Effort*. The data are set up to take full advantage of the computational power and popularity of *Lotus 1-2-3* or

Symphony software which, enhanced by an automatic program, can be used to perform many research functions.

Figures in the data base are organized not only for customized calculations but also for ease of presentation as graphs showing trends and interstate comparisons. About 200 "pre-programmed" graphs are included for each state, making the data base a chart book also. The data base includes regional averages, the dollar size of the per capita tax base, state-local tax collections, the statutory tax rate (for sales and income taxation), and effective tax rates.

Summary indexes of tax capacity and tax burdens are provided for each calendar year from 1979 to 1985, and for 1975 and 1977. In addition to the time series for the representative tax system index, data for selected years appear for four other indexes of tax capacity and the condition of the state economy: the representative revenue system (encompassing non-tax revenue sources); per capita personal income; personal income adjusted for a state's ability to "export" taxes; gross state product (the state analog to GNP); and total taxable resources, a new fiscal capacity measure.

Current Status: This series is updated annually. The 1985 diskettes were completed in early March 1988.

Project Name: Federal Grants by State.

Initiation: Preparation of this diskette series was approved by the Executive Director in November 1987, under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations. The diskettes were initially prepared under contract to the National Council on Public Works Improvement.

Assigned Staff: Michael Lawson.

Description: This series of diskettes contains state-by-state expenditures for every federal grant program—approximately 500 grants to state and local governments as well as several hundred grants awarded to nongovernmental entities. Data are available for FY 1983 and FY 1986 and are organized on a fiscal year basis—four diskettes for each fiscal year.

Current Status: The diskette series for FY 1983 and FY 1986 were issued in December 1987. A decision has not yet been made as whether to update this series on a regular basis.

III. Topical Research Projects in Process

Project Name: Public Assistance in the Federal System: Intergovernmental Considerations for National Welfare Reform, Part I.

Initiation: Commission adopted work plan in June 1985.

Assigned Staff: Ronald J. Oakerson and John Kincaid.

Description: This study examines trends in poverty and welfare policy; highlights salient controversies in poverty research and policy making; reexamines ACIR's standing recommendations on public welfare funding; details and evaluates existing and proposed methods of combating poverty and providing public assistance; and analyzes the intergovernmental issues and consequences involved in various arrangements for providing public assistance.

Current Status: A report with recommendations was approved at the June 1987 meeting of the Commission. Appropriate revisions have been completed.

Expected completion: Publication is expected in April 1988, together with Part II below.

Project Name: Public Assistance in the Federal System: Intergovernmental Considerations for National Welfare Reform, Part II.

Initiation: Commission adopted work plan in June 1985.

Assigned Staff: Ronald J. Oakerson.

Description: This study examines the roles of local communities and nonprofit community organizations in public assistance programs intended to promote recipient self-sufficiency; intergovernmental issues raised by current legislative proposals for welfare reform; issues in waivers of federal law for state welfare-reform experimentation; and principles of intergovernmental organization for public assistance provision.

Current Status: A report with recommendations was approved by the Commission at its December 1987 meeting.

Expected Completion: Publication is expected in April 1988, together with Part I above.

Project Name: Local Self-Reliance: Alternative Approaches to Providing Local Public Services.

Initiation: Commission adopted work plan in March 1985.

Assigned Staff: Ronald J. Oakerson, Dolores Martin, and Robert M. Stein (Contractor).

Description: This project examines the broad range of possible approaches to providing local public services—including contracting (both private and intergovernmental), franchising, user charges, joint service agreements, and load-shedding—as a means to promoting greater local self-reliance. Because of widespread interest in contracting, as well as substantial evidence of efficiencies to be gained from contracting, this mode of service production was selected for special emphasis. After assembling data for a representative sample of all municipalities over 10,000 population in the nation, analysis was conducted to learn more about the conditions under which contracting does and does not work, including an assessment of its fiscal effects on local communities.

Current Status: Report is being revised in preparation for publication.

Expected Completion: Publication is expected in May 1988.

Project Name: Rethinking Local Self-Government in a Federal System: The Structure and Performance of Local Political Economies.

Initiation:	Commission adopted work plan in March 1985.
Assigned Staff:	Ronald J. Oakerson and Roger B. Parks (Contractor).
Description:	This project, which began in September 1985, is intended to provide a research base for a fundamental rethinking of ACIR's approach to the organization of local government, including what is ordinarily called "state-local relations." The focus is on "local political economies" rather than on discrete units, or types of units, of local government. Local political economies are understood to embrace a wide variety of public and quasi-public goods and services in local communities. Because local political economies in the U.S. consist of a large number of fairly autonomous public organizations, the project's initial focus has been on the effects and processes of "fragmented" local political economies. The effects of fragmentation have been addressed mainly through a comprehensive review of existing research. How fragmentation works in the context of local political economies was addressed through a case study of St. Louis City and County, Missouri. St. Louis County was selected because it is one of the most highly "fragmented" urban counties in the nation. The field work for this study was conducted in the summer of 1986. Additional work was done, both to test additional hypotheses about the effects of fragmentation and to explore more fully the organization of local political economies. Because the structure and performance of local political economies often depends on provisions of state law, the research examines interstate and intra-state variations in state law.
Current Status:	An analysis based upon both a comprehensive review of literature and the St. Louis case study was presented to, and approved by the Commission in June 1987. Additional reviews from researchers and practitioners, including persons in the St. Louis area, have been obtained by the staff.
Expected Completion:	The first (theoretical) volume was issued in December 1987. A report entitled *Metropolitan Organization: The St. Louis Case,* will be published in April 1988.

Project Name: State ACIRs: An Information Report.

Initiation:	This project was approved by the Executive Director in April 1987, under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations.
Assigned Staff:	Jane F. Roberts.
Description:	This report will contain detailed information about each of the existing 25 state ACIR counterpart agencies.
Expected Completion:	Publication is expected in April 1988.

Project Name: Readings in Federalism.

Initiation:	Approved by the Commission in March 1987.
Assigned Staff:	Robert R. Gleason.
Description:	This report will consist of a collection of readings from *Intergovernmental Perspective* and ACIR reports for use by educators and citizens during the Bicentennial period.
Expected Completion:	Publication is expected in April 1988.

Project Name: Local Revenue Diversification.

Initiation: Commission adopted work plan in March 1983.

Assigned Staff: Susannah E. Calkins, John Shannon (Contractor), and other staff members and outside contractors who prepared the original studies.

Description: During 1983 and 1984, the Commission's Tax and Finance section and selected outside contractors prepared a series of studies designed to explore revenue alternatives to the local property tax as a guide for local governments under financial pressure from recessions, reductions in federal aid, and property tax limitations. Additional studies on state aid, cash management, and public debt were included. Since their preparation, these studies have been submitted to outside critics and internal review. The ACIR has received a steady stream of requests for information on these subjects. As staff time permits during the next year, revised and updated studies will be issued as individual staff working papers.

Current Status: A staff report (62 pp.) on user charges by Robert Cline was published as SR-6 in October 1987.

Expected Completion: The next studies issued will be those on local income taxes (April 1988) and local sales taxes (May 1988).

Project Name: State Mandates (A Joint Project with State ACIRs).

Initiation: Approved by the Commission as a Committee of the Whole in June 1986. Approved by full Commission in March 1987.

Assigned Staff: Jane F. Roberts and State ACIRs.

Description: This information report will be based on descriptions by state ACIRs of current state mandate activities including the development of catalogues, the results of major studies, and the implementation of reimbursement programs and alternative state policies. The report also will include material about fiscal note processes.

Current Status: Work is under way to develop state descriptions.

Expected Completion: Publication is expected in May 1988.

Project Name: Setting New Agendas for Intergovernmental Decentralization: The International Experience.

Initiation: Approved by the Commission Chairman under the general mandate to collect and disseminate information relevant to intergovernmental relations and to improve intergovernmental cooperation.

Assigned Staff: John Kincaid and Paul Knox (Contractor).

Description: This report will be a collection of papers presented at a conference that brought together scholars and officials from a number of countries, including the USA, UK, FRG, Canada, France, Italy, Spain, Japan, Australia, and Switzerland to examine the outcomes of and prospects for devolving power and authority in democratic political systems, both federal and non-federal.

Current Status:	The conference was held on February 22-24, 1988. Selected papers will be published in *Intergovernmental Perspective*, and an information report.
Expected Completion:	Publication is expected in August 1988.

Project Name: State and Local Responses to Homelessness in An Era of Limited Resources .

Initiation:	Approved by the Commission in June 1987.
Assigned Staff:	Rosita M. Thomas and John Kincaid.
Description:	This report will be based on papers presented at a conference that brought together researchers and practitioners to examine and evaluate innovative and successful state and local responses to homelessness and to identify relevant intergovernmental issues that might be addressed by the Commission.
Current Status:	The Conference was held on March 10-11, 1988. Findings and recommendations will be presented at the March 25, 1988, Commission meeting.
Expected Completion:	Publication of an information and/or policy report is expected in June 1988, pending form and timing of the Commission action.

Project Name: The Role of the National Judiciary in the Federal System.

Initiation:	Commission adopted work plan in December 1984.
Assigned Staff:	John Kincaid, Lawrence A. Hunter, and Justice Resources, Inc. (Contractor).
Description:	This research examines the roles of the national judiciary in the federal system in light of the many federal court decision during the past 50 years which have altered the position of the states in the federal system. The first phase of the research involved the establishment of a framework for studying issues of federalism and the courts. The second phase has involved an analysis of the efforts of federal courts to reform state institutions and public policy.
Current Status:	Research from the first phase was published, with Commission approval, in April 1986 under the title *A Framework for Studying the Controversy Concerning the Federal Courts and Federalism.* A draft report from the second phase of the research project is under review.
Expected Completion:	Uncertain. External and internal reviews of the draft report have not been positive.

Project Name: Federal Preemption of State and Local Laws and Authority.

Initiation:	Commission adopted work plan in March 1985.
Assigned Staff:	John Kincaid and Joseph F. Zimmerman (Contractor).
Description:	This project follows up on ACIR's major research on regulatory federalism, which was published in February 1984. The current

research focuses on federal preemption of state and local authority to regulate public and private sector activities and on mandate reimbursement. A typology of preemption is being developed and the consequences of various types of preemption for states and local governments are being examined along with alternatives to federal preemption.

Current Status: Research is in process, along with the development of a typology, including illustrative legislation representing preemption.

Expected Completion: Research on preemption is expected to be completed by April 1988, and a report is expected to be ready for presentation to the Commission by June 1988. Research on mandate reimbursement is expected to be completed by June 1988, and a report is expected to be available for presentation to the Commission by September 1988.

Project Name: Highway Turnbacks: State-Local Issues and Relations.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: John Kincaid, Jane F. Roberts, Rosita M. Thomas and Michael A. Pagano (Contractor).

Description: This study involves an examination of state constitutional and statutory provisions that might affect a highway turnback; a survey of state legislators regarding state-local cooperation on highway matters and views on turnbacks; and case studies of highway policy and state-local relations in six states.

Current Status: Questionnaire to state legislators was mailed in September 1987. Case studies of six states and other research are complete.

Expected Completion: Publication of a survey of state legislators is expected in April 1988. Publication of a report on state legal issues and the case studies is expected in May 1988, pending form and timing of Commission action.

Project Name: The Congress, the States, and Federalism

Initiation: Approved by the Commission in June 1987.

Assigned Staff: John Kincaid and Ronald J. Oakerson.

Description: This study examines the question of whether congressional assertions of its commerce and spending powers have eroded the position of the states in the federal union, and whether remedial action, including possible constitutional action, is needed to restore balance to the federal system.

Current Status: A thinkers' session was held in July 1987, and a preliminary outline of constitutional options was presented to the Commission at its September 1987 meeting. A questionnaire soliciting views on constitutional options was mailed to 49 constitutional scholars in October 1987; results were presented at the December 1987 Commission meeting. A report is being prepared for the March 1988, Commission meeting.

Expected Completion: Publication is expected in May 1988, pending form and timing of Commission action.

Project Name: Federal and State Compliance with National Mandates and Standards: Does the Federal Government Practice What It Preaches?—Access for the Handicapped.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: John Kincaid, Rosita M. Thomas, and Stephen L. Percy (Contractor).

Description: This study examines federal and state compliance with federal mandates regarding barrier-removal and equal employment opportunities for persons with disabilities. The study will examine the extent and speed of compliance by both the federal government and state-local governments with a view toward identifying mechanisms, incentives, and problems in compliance.

Current Status: A thinkers' session was held in July 1987. A second session was held in October 1987. A research plan has been formulated, and research is under way.

Expected Completion: Publication is expected in February 1989, pending form and timing of Commission action.

Project Name: Interjurisdictional Tax and Policy Competition: Good or Bad for the Federal System?

Initiation: Approved by the Commission in June 1987.

Assigned Staff: John Kincaid, Daphne Kenyon and Robert Ebel (Contractors).

Description: This study examines the extent, effects, causes, and mechanisms of interstate tax and policy competition, particularly for jobs and economic development. The key question of the study is whether competition is healthy or destructive for the states and the federal system.

Current Status: A revised draft of the report will be presented at the March 1988 Commission meeting.

Expected Completion: Publication is expected in May 1988, pending form and timing of Commission action.

Project Name: How Local Public Economics Work: Equity, Viability, and Service Responsiveness in America's Civil Communities—Part I.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Ronald J. Oakerson and Roger B. Parks (Contractor).

Description: This study extends previous Commission work on local self-government in the federal system. In Part I, case-study research will be conducted in Allegheny County, Pennsylvania, a highly "fragmented" metropolitan area, building upon the previous ACIR study of St. Louis County, Missouri.

Current Status: Research began in January 1988.

Expected Completion: Publication of the research is expected in late Spring 1989, pending form and timing of Commission action.

Project Name: How Local Public Economies Work: Equity, Viability, and Service Responsiveness in America's Civil Communities – Part II.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Ronald J. Oakerson and Roger B. Parks (Contractor).

Description: In part II, the case study undertaken in part I together with the previous study of St. Louis County, Missouri, will be used as a basis for comparative analysis, studying the similarities and differences in the ways two highly developed local public economies are differentiated and coordinated. Issues of metropolitan governance will be highlighted.

Current Status: Analysis will begin in the Summer 1988.

Expected Completion: Publication of the research is expected in late Spring 1989, pending form and timing of Commission action.

Project Name: How Local Public Economics Work: Equity, Viability, and Service Responsiveness in America's Civil Communities – Part III.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Ronald J. Oakerson.

Description: In part III, the experience of metropolitan areas with city-county and other forms of consolidation will be examined. A comparative analysis with the more "fragmented" local public economies studied in parts I and II will be undertaken.

Current Status: Planning is under way. Research will begin in April 1988.

Expected Completion: Publication of the research is expected in Summer 1989, pending form and timing of Commission action.

Project Name: How Local Public Economies Work: Equity, Viability, and Service Responsiveness in America's Civil Communities – Part IV.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Ronald J. Oakerson and Debra L. Dean (Contractor).

Description: Part IV of this study will focus upon practical problems encountered in local public economies and how citizens and officials address those problems. The future course of local government reform will be explored.

Current Status: Planning is under way. Research will begin in the Spring 1988.

Expected Completion: Publication of the research is expected in Fall 1989, pending form and timing of Commission action.

Project Name: Boundary Review Commissions: Good or Bad for Local Self-Government?

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Ronald J. Oakerson and Debra L. Dean (Contractor).

Description: This study examines the operations of state Boundary Review Commissions for the purpose of determining the extent to which they do or do not have veto authority or other authority over the formation of new units of local government or the reorganization of units of local government.

Current Status: Research is well under way.

Expected Completion: Publication of the research is expected in November 1988, pending form and timing of Commission action.

Project Name: State Law in the Federal System: Shaping A New Judicial Federalism.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: John Kincaid, Rosita M. Thomas and CSF Associates, Inc. (Contractor).

Description: This study examines the place of state law in the federal system in terms of the extent to which state law has been displaced by federal law, the degree to which there are independent spheres of action for state law, and the extent to which state constitutions have come to serve as independent and adequate grounds for state action.

Current Status: Research is well under way. A thinkers' session was held in October 1987.

Expected Completion: Publication of the research is expected in January 1989, pending form and timing of Commission action.

Project Name: State and Local Taxation and Regulation of Interlocal and Interstate Service Businesses: Fairness and Equity in a Complex Political Economy.

Initiation: Approved by the Commission in June 1987.

Assigned Staff: John Kincaid and Sandra B. McCray (Contractor).

Description: This study examines the complex issues involved in state regulation and taxation of interstate banking and telecommunications. A major purpose of the study is to develop recommendations for uniform rules of taxation and regulation by the states that will be fair to both the states and the banking and telecommunications industries.

Current Status: Research is under way. A thinkers' session on interstate banking was held on March 7, 1988.

Expected Completion: Publication of the research is expected in two stages: the banking study in August 1988 and the telecommunications study in March 1989.

Project Name: Understanding State Constitutional Law: Cases and Commentaries

Initiation: Approved by Executive Director as extension of topic entitled "State Law in the Federal System," which was approved by the Commission in June 1987.

Assigned Staff: John Kincaid and Robert F. Williams (Contractor).

Description: This information report will be a primary casebook in American state constitutional law. At present, there is no casebook on state constitutional law equivalent to the many casebooks available on federal constitutional law. The ACIR casebook will be a distinctive and important contribution to an emerging dimension of contemporary federalism and intergovernmental relations.

Current Status: Compilation of case materials and preparation of narrative commentary is under way.

Expected Completion: Publication of the casebook is expected in August 1988, pending form and timing of Commission action.

Project Name: Local Governments in International Affairs.

Initiation: Approved by the Commission in June 1987 as part of larger topic entitled "The Federal Union in the International System: State and Local Responses to International Economic and Political Challenges."

Assigned Staff: Rosita M. Thomas.

Description: This study examines the range of international activities and relationships being developed by local governments in such fields as trade, investment, education, and culture as well as the policy interests being expressed by local governments and citizens in international affairs.

Current Status: Research is under way. A thinkers' session was held on February 29, 1988.

Expected Completion: Publication is expected in Spring 1989, pending form and timing of Commission action.

RESEARCH CONFERENCES

Project Name: Interstate Competition: Good or Bad for the Federal System?

Initiation: Approved by the Executive Director as a complement to the research project entitled "Interjurisdictional Tax Policy Competition," which was approved by the Commission in June 1987.

Assigned Staff: John Kincaid and Daphne Kenyon (Contractor).

Current Status: Conference is being cosponsored by ACIR and the Urban Institute. Planning is under way and prospective topics and participants have been identified.

Expected Completion: Conference will be held on March 23-24, 1988. It is expected that an information report will be issued by the conference cosponsors.

Project Name: Residential Community Associations: Help or Hindrance to Local Self Governance?

Initiation: Approved by the Commission in June 1987.

Assigned Staff: Ronald J. Oakerson and Debra L. Dean (Contractor).

Description: This project will feature a conference on residential community associations, such as homeowners associations and organized subdivisions, to explore the advantages and disadvantages of a greater reliance on this form of organization to provide local public goods and services, as well as to regulate land use. Relationships to units of local government will be highlighted.

Current Status: Planning is well under way. The conference is scheduled for June 13, 1988.

Expected Completion: Publication of the research conference papers is expected in September 1988, pending form and timing of Commission action.

Project Name: Improving State-Local Relations: The Importance of Rural Governments

Initiation: Approved by the Acting Executive Director in March 1988, under the general mandate of the ACIR to collect and disseminate information relevant to intergovernmental relations.

Assigned Staff: Susannah E. Calkins, Rosita M. Thomas, and U.S. Department of Agriculture (Cosponsor).

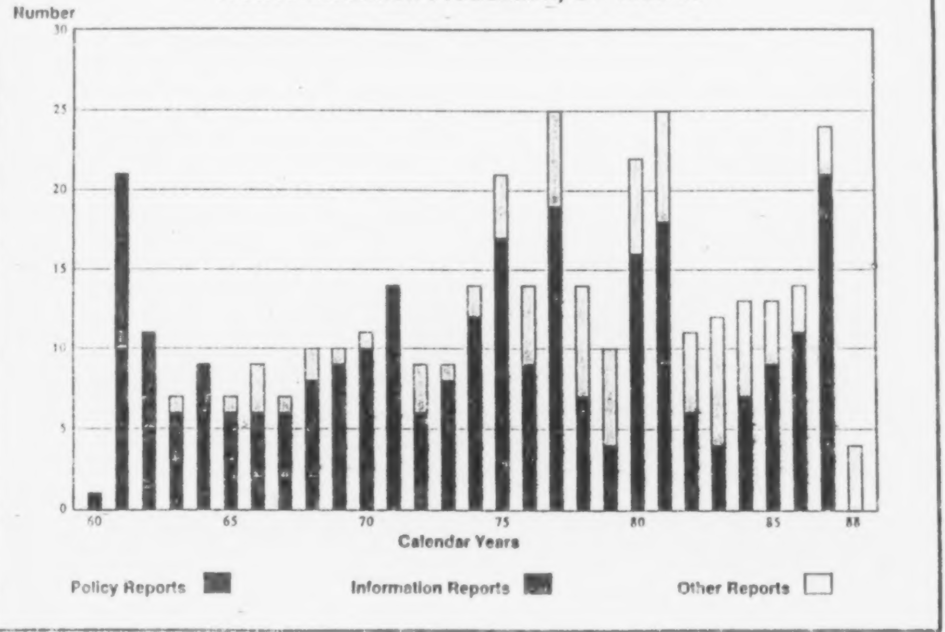
Description: This conference will examine fiscal, administrative, and political issues in state-local relations, with a primary emphasis on rural local governments. Efforts will be made to identify key issues, examine mechanisms that promote good state-local relations, and suggest ways of developing better state-local relations.

Current Status: Planning for the conference is in its early stages.

Expected Completion: The conference will probably be held in early Fall 1988.

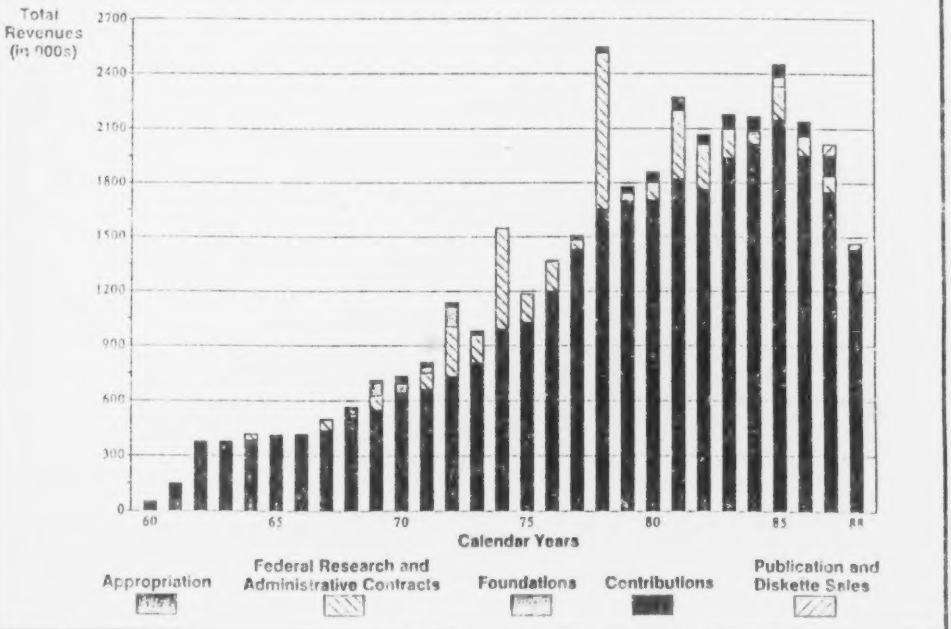
Appendix B

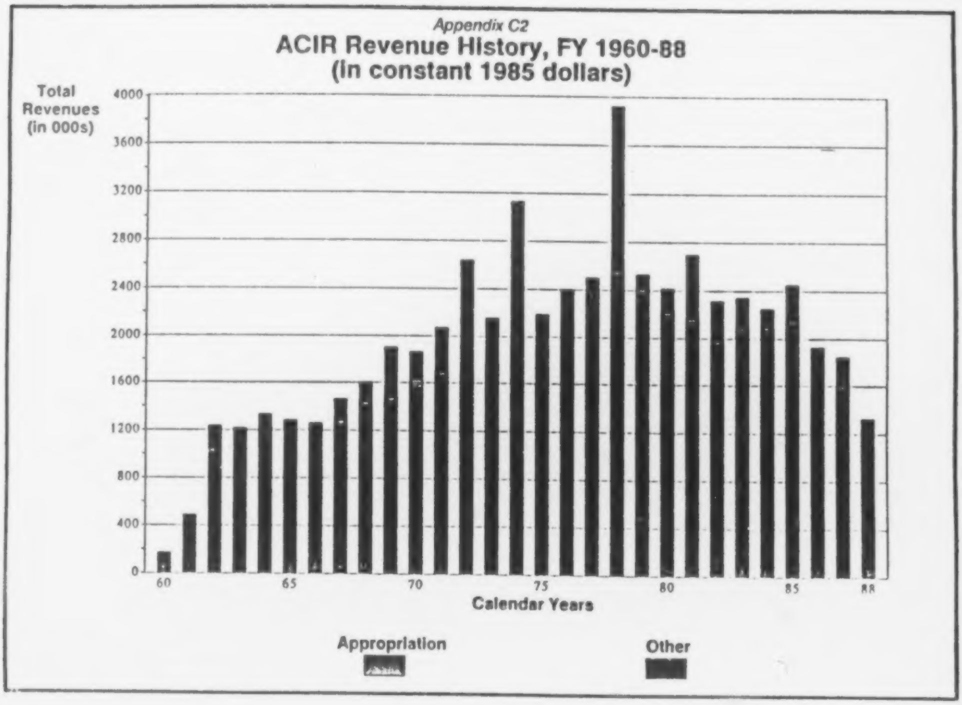
ACIR Publication Production, CY 1960-88



Appendix C1

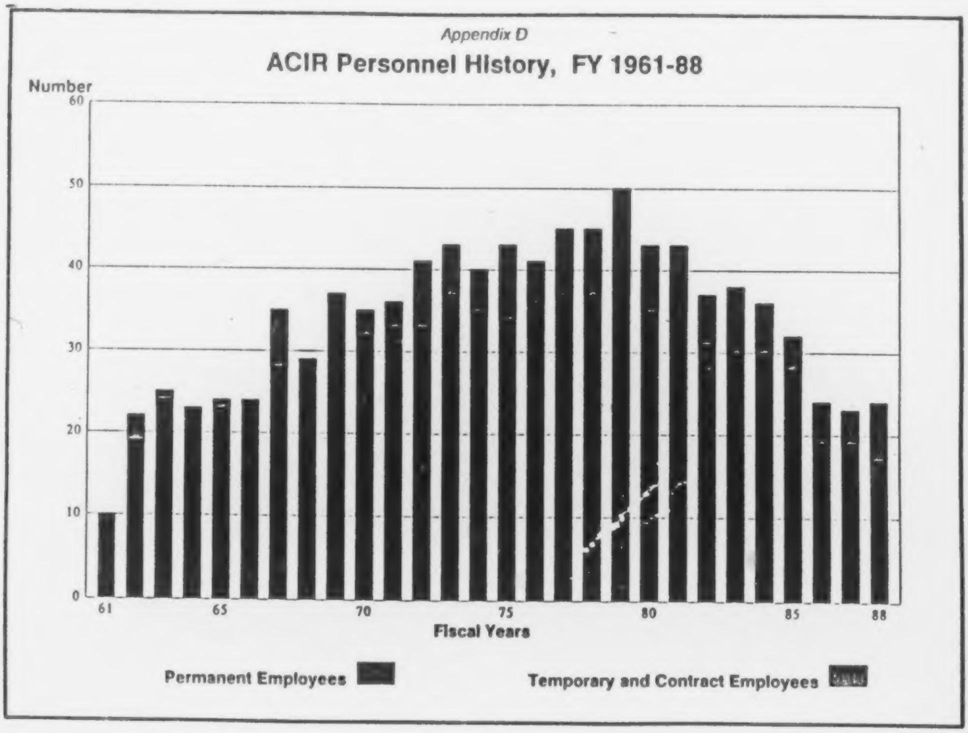
ACIR Revenue History, FY 1960-88





Appendix C2

ACIR Revenue History, FY 1960-88
(in constant 1985 dollars)



Appendix D

ACIR Personnel History, FY 1961-88

Appendix E

STATE CONTRIBUTIONS AND MARKETING OF ACIR PRODUCTS

As a result of declining appropriations, ACIR has sought to substantially increase its outside income. In FY 1987, the Congress reduced the Commission's budget, but, for the first time, allowed ACIR to keep the proceeds from earned revenues. As regards these earned revenues, this memorandum deals the sale of publications and microcomputer diskettes; it will also discuss state contributions.

STATE CONTRIBUTIONS

Although ACIR has requested contributions from the states since the early 1970s—and has been permitted to keep the proceeds in a special account—in FY 1987 we began asking for considerably larger contributions. Based on population, annual requests now range from $5,000 to $13,000. However, in exchange for doubling their contributions, states also receive a "benefit package" of sets of our microcomputer diskettes series and publications, the number of sets dependent on the amount of their contribution. Although the number of contributing states fell in FY 1987 (to 26 from 35 in FY 1986), the total dollar amount contributed increased from $84,750 to $118,550. Part of the reason for the decline in the number of states contributing was undoubtedly that we were asking for much higher contributions, but another reason might have just been confusion over *why* we were asking for higher contributions. In response, materials have been developed to better inform people in the states. In addition, we are endeavoring to broaden and escalate our requests for contributions among state officials.

MARKETING

First, the Bottom Line. ACIR generated $61,775 from the sale of its products during FY 1987. Approximately $36,000 of this amount was for publications, and approximately $25,000 was for microcomputer diskettes. During the first five months of FY 1988 revenue from sale of products was $35,616—40% more than during the same period last year.

Promotions. Several marketing techniques are used to promote ACIR products. These include:

- ***Omnibus Brochures.*** Every two or three months, a catalog of all ACIR publications and microcomputer diskettes is revised and updated. These brochures are used both for displays at meetings (see below), and in mailings, including mass mailings to our in-house list or purchased lists such as libraries, and more specialized mailings such as to embassies or individual requests for publications lists.
- ***Special Brochures.*** Most ACIR publications and microcomputer diskettes receive a special brochure. Sometimes these are mailed to our in-house list, but most often they are mailed to a specialized (subject oriented) purchased list.
- ***Special Mailings.*** Periodically, we send out "personalized" mailings to selected groups of individuals—e.g., political science professors, bond houses and financial institutions.
- ***Intergovernmental Perspective.*** ACIR's quarterly magazine is sent free to approximately 17,000 individuals. Therefore, it is used as an advertising vehicle for the Commission's products. Pages are devoted to promoting various publications, as are some summary articles.
- ***Displays.*** ACIR has been showing its "wares" at numerous meetings of groups

likely to be interested in our products. Often, this takes the form of a full display of targeted publications. In addition, brochures are sent to smaller and regional meetings of public interest groups for display at the registration desk.

- ***Requests for Reviews.*** Complimentary copies of selected ACIR publications are sent to editors of scholarly periodicals in the hope that they will review the ACIR publication and notify readers of its availability.
- ***Subscriptions.*** ACIR has three subscription packages: for $1,000 a subscriber receives all microcomputer diskettes and publications; for $200 a subscriber receives one region of the city-county finance diskettes, a state-local revenue and expenditure diskette, plus all publications; and for $75 a subscriber receives publications only.

PROSPECTIVE

Perhaps the most important marketing accomplishment of the past year and a half has been educating ACIR's wide audience to the fact that publications are no longer free. In addition, the Commission's output has become far more prolific, so ACIR is generating more products to sell.

Another advantage is that we have computerized our sales returns, and are now better able to target mailings for repeat business.

Appendix F

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

BUDGET REQUEST FOR FISCAL YEAR 1989

SALARIES AND EXPENSES

Budget Request And Justification For Fiscal Year 1989

1988	Salaries and Expense Appropriation	$1,378,000		
	Indicated Change		-$103,000	
1989	Salaries and Expense Appropriation Request			$1,275,000

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended, 42 U.S.C. 4271-79, [$1,378,000], and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriations. *(Independent Agencies Appropriations Act, 1988.)* $1,275,000

The Advisory Commission on Intergovernmental Relations (ACIR) is a 26-member independent, bipartisan body. The Commission and its staff examine Federal, state and local trends, events, and programs having an intergovernmental impact. On request, proposed legislation and executive actions are reviewed to determine their overall effect on the federal system. The Commission also identifies emerging problems of Federal-state-local relations and assists states and localities in anticipating and meeting problems caused by various intergovernmental overlaps and conflicts, and makes recommendations concerning the workings and structural arrangements of governmental units and allocation of responsibilities and revenues among the various levels of government. The recommendations and published reports growing out of the Commission's work are submitted to the executive and legislative branches of Federal, state, and local governments for appropriate action.

Continuing and annual projects of the Commission include assessing the changing public attitudes on government and taxes; publishing annual data on the "representative tax system" for all 50 states; analyzing fiscal disparities; publishing an periodic catalog of federal aid; surveying and identifying trends in state and local finances; monitoring key intergovernmental legislation of federal, state, and local governments; and providing educational and technical assistance to Federal, state, and local governments regarding Commission recommendations.

Nonrecurring projects nearing completion include studies on designing a more effective intergovernmental welfare system, state-by-state analysis of proposals to reform the individual income tax, the role of the national judiciary in the federal system, alternative approaches to providing local public services, and rethinking local self-government in a federal system.

Research projects just beginning include studies of federal preemption of state and local laws and authority; the Congress, the states, and federalism; federal and state compliance with national mandates; interjurisdictional tax and policy competition; an extension of recently completed work on local public economies; boundary review commissions; state law in the federal system; and state and local taxation and regulation of inter-local and inter-state service businesses.

Appropriations finance the personnel and personnel-related expenses incurred in the basic day-to-day operation of the Commission.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS
SALARIES AND EXPENSES
Personnel Summary

55-0100-0-1-806	87	88	89 Request
Direct:			
Total number of full-time permanent positions	19	19	18
Total compensable workyears:			
Full-time equivalent employment	21	20	19
Reimbursable:			
Total compensable workyears:			
Full-time equivalent employment:	2	1	1

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

Program and Financing (in thousands of dollars)

55-0100-0-1-806		87	88	89 Request
	Program by activities:			
	Direct Program:			
00.01	General administration	447	395	380
00.02	Intergovernmental research	1,300	978	895
00.91	Total direct program	1,747	1,373	1,275
01.01	Reimbursable program	146	125	95
10.00	Total Obligations	1,893	1,498	1,370
	Financing:			
	Offsetting collections from:			
11.00	Federal funds	-85	-45	-15
14.00	Non-Federal sources	-61	-75	-80
25.00	Unobligated balance lapsing	3		
40.00	**Budget authority (appropriation)**	1,750	1,378	1,275
	Relation of obligations to outlays:			
71.00	Obligations incurred, net	1,747	1,378	1,275
72.40	Obligated balance, start of year	300	422	366
74.40	Obligated balance, end of year	-422	-366	-351
77.00	Adjustment in expired accounts	-5	...	...
90.00	Outlays	1,620	1,434	1,290

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

Object Classification (in thousands of dollars)

55-0100-0-1-806		87	88	89 Request
	Direct obligations			
	Personnel compensation:			
11.1	Full-time permanent	686	689	729
11.3	Other than full-time permanent	17	25	5
	Total personnel compensation	703	714	734
12.1	Civilian personnel benefits	127	121	121
	Travel and Transportation of persons:			
21.0	Staff Travel	16	25	...
21.0	Commission Travel	22	25	...
21.0	Invitational Travel	6	10	...
22.0	Transportation of things	25	30	...
23.1	Rental payments to GSA	233	230	230
23.2	Communications, utilities, and miscellaneous charges	53	80	120
24.0	Printing and reproduction	32	20	...
25.0	Other services	418	98	25
26.0	Supplies and materials	44	25	45
31.0	Equipment	65	...	...
99.0	Subtotal, direct obligations	1,744	1,378	1,275
99.0	Reimbursable obligations	149	120	95
99.00	Total obligations	1,893	1,498	1,370

Cost Analysis of FY 1989 Budget

A comparative analysis of fiscal years 1987, 1988, and 1989 show how four object classifications, the costs of which are not entirely under agency control, have grown to account for almost all of our appropriated funding. These object classifications are personnel costs, rent, and communications, utilities, and miscellaneous charges.

The percentages in the table below show how much of ACIR's appropriation is spent on these object classifications in each of the three years under the appropriation reduction, despite vigorous ACIR cost control efforts. In FY 1987, nondiscretionary funding accounted for approximately 33.1% of the appropriation. In FY 1989, 94.5 percent of the appropriation request will go for these four categories.

Expenditure (in $000s)	FY1987		FY1988		FY1989 Request	
	Amount	Percent	Amount	Percent	Amount	Percent
(Appropriation)	1,750		1,378		1,275	
Personnel Costs	703	40.2%	714	51.8%	734	57.6

Expenditure (in $000s)	FY1987		FY1988		FY1989 Request	
	Amount	Percent	Amount	Percent	Amount	Percent
Personnel Benefits: Civilian	127	7.3	121	8.8	121	9.5
Rental payments to GSA	233	13.3	230	16.7	230	18.0
Communications, utilities, and miscellaneous charges	53	3.0	80	5.8	120	9.5
Total Expenditures, and as a Percent of Appropriation	1,116	63.2	1,145	83.1	1,205	94.5

10-Year Budget Comparison
(In thousands of dollars)

The table below indicates that from FY 1979 projected through the FY 1989 request, the absolute amount appropriated for the Commission has decreased by $475,000 or just over 27%, but also has decreased $856,000 or 40% from its peak in 1985, a decline in direct contrast to the growth in other federal agency appropriations, the rate of inflation, or the annual GNP. ACIR had been in an absolute dollar appropriation decline for five years prior to the FY 1987 appropriation reduction. The largest share of the decrease has been taken out of personnel. The part of ACIR's appropriation totally under agency control, referred to as discretionary, has been reduced from $310,000 in FY 1979 to $70,000 in FY 1989. It should be noted that outside income (sales, contributions, honoraria, and reimbursements, etc.) will, for the first time in ACIR's history, provide almost all of ACIR's discretionary income in FY 1989.

Fiscal Year	Amount In Presidential Budget	Amount Appropriated	Personnel Benefits Rent, Communications and Miscellaneous Charges	Discretionary Portion of Appropriation*	
				In Current Dollars	In Constant* Dollars
1979	1,654	1,654	1,326	328	218
1980	1,698	1,698	1,388	310	190
1981	1,884	1,822	1,447[1]	257	144
1982	1,998	1,763	1,502[2]	261	126
1983	1,920	1,940	1,505[3]	435	202
1984	2,016	2,016	1,564	452	202
1985	2,131	2,148	1,843	305	124
1986	2,058	1,953	1,456[4]	497	174
1987	1,750	1,750	1,116[5]	634	222
1988	1,390	1,378[6]	1,145	233	82
1989	1,275		1,205	70	25

*Includes obligations for printing, contractors (predominantly research), supplies, travel, and equipment.

Notes:

[1] 1981—Staff reduced by one full-time position.

[2] 1982—Staff reduced by two full-time positions.

[3] 1983—Did not fill three vacancies in order to purchase computer equipment.

[4] 1986—Staff reduced by four full-time positions.

[5] 1987—Staff reduced by five full-time positions.

[6] 1988—The amount available for travel has been reduced by $12,000 by enactment of the *Independent Agencies Appropriation Act, 1988.*

Direct Program
Object Classification Net Change Justification
FY 1988-89

Object Classification	FY 1988	FY 1989	Net Change
Personnel Compensation:			
11.1 Full-time permanent	689	729	+40
The 2 percent pay raise and within-grade increases account for the change.			
11.3 Other than full-time	25	5	-20
This category covers our use part-time temporaries on regular staff, Commission member salaries, and short-term temporary personnel to work on special projects such as legal services and mailing list updates. The appropriation reduction necessitates a reduction in these expenditures.			
TOTAL PERSONNEL COMPENSATION	714	734	+20
12.1 Personnel Benefits: Civilian	121	121	—
There will be no change in benefit costs.			
21.0 Travel and transportation of persons	60	0	-60
All travel will be funded from income in the trust account.			
22.0 Transportation of things	30	0	-30
All shipments of things will be funded from income in the trust account.			
23.1 Rental payments to GSA	230	230	—
Currently, no increase is anticipated.			
23.2 Communications, utilities, and miscellaneous charges	80	120	+40
A planned postal service increase and higher GSA rate increases indicate that this group of charges will show faster increases than last year. The entire increase of $40,000 is due to the higher rates mandated by GSA, USPS, etc.			
24.0 Printing and reproduction	20	0	-20
The trust account will fund this reduction.			
25.0 Other services	98	25	-73
The trust account will fund this reduction.			
26.0 Supplies and materials	25	45	+20
This amount is in line with alternate year averages. Since ACIR purchases supplies in bulk to save money, some quantity purchases last for two years rather than one.			
99.0 Total Obligations	1,378	1,275	-103

Numbers of Civilian Personnel

	Number of Employees at End of Year					
	1987 Actual		1988 Estimate		1989 Request	
	Full-time in Permanent Positions	FTE Total	Full-time in Permanent Positions	FTE Total	Full-time in Permanent Positions	FTE Total
Salaries and Expenses						
Administrative Expenses	19	21	19	20	18	19
Reimbursable Program	2	2	1	1	1	1
Total Agency Employment (Employment shown in Budget schedules)	21	23	20	21	19	20

Permanent Staff
9/30/87

Shannon, F. John (Executive Director)
Calkins, Susannah E. (Senior Analyst)
Casey, Joan (Information Officer)
Dominguez, Mary A. (Secretary)
Fried, Esther (Personnel Officer)
Gleason, Robert (Director of Communications & Publications)
Hahn, Thomas D. (Accountant)
Jones, MacArthur (Publications Assistant)
Kincaid, John (Research Director)
Kirkwood, Karen L. (Staff Assistant)
Lynch, Carolyn (Analyst)
McManus, Kelly (Information Officer/Librarian)
McPhaul, Anita (Secretary)
Oakerson, Ronald (Senior Analyst)
O'Bier, Lori (Secretary)
Phillips, Ruthamae A. (Administrative Assistant)
Roberts, Jane F. (Assistant Director of Communications & Publications)
Ross, Ronald L. (Mail Room Supervisor)
Smith, Betty (Secretary)
Smith, Linda M. (Receptionist)
Steinko, Franklin A., Jr. (Budget and Management Officer)

Reimbursements By Object Classification
FY 1987

Object Classification	Payee	Amount
11.1	**Full-time permanent**	
	Department of Health & Human Services	27,682.00
	Harry S. Truman Scholarship Foundation	15,000.00
	National Council on Public Works	37,000.00
12.1	**Personnel benefits: Civilian**	
	Department of Health & Human Services	4,885.00
21.0	**Travel**	3,165.95
	Total	**$87,732.95**

Reimbursable Program Receipts
FY 1987

Agency:	Department of Health & Human Services
Amount:	$32,567
Time Frame:	January 1, 1987, to December 31, 1987
Purpose:	Reimbursable detail

Agency: Harry S. Truman Scholarship Foundation
Amount: $15,000
Time Frame: October 1, 1986, to September 30, 1987
Purpose: Administrative Services

Agency: National Council on Public Works Improvement
Amount: $37,000
Time Frame: October 1, 1986, to September 30, 1987
Purpose: Administrative Services

Invitational Travel
FY 1987

Payee	Amount	Purpose
J. Casey	$ 156.00	Interview
J. Kincaid	770.69	Commission Meeting
J. Kincaid	231.48	Welfare Reform and Highway Turnback Meeting
M. Lawson	597.00	ASPA Meeting
R. Parks	321.00	Local Governments Critics' Session
M. Libonati	92.60	Local Governments Critics' Session
M. Schneider	205.49	Local Governments Critics' Session
H. Bell	271.00	Local Governments Critics' Session
J. Zimmerman	257.8	Preemption Meeting
R. Parks	612.70	Commission Meeting
V. Stanovcic	914.31	Commission Meeting
S. Percy	55.40	Mandates Thinkers' Session
E. Katz	174.42	Mandates Thinkers' Session
T. Luce	83.20	Interview
R. Berger	364.86	Commission Meeting
A. Breton	250.00	Tax Competition Critics' Session
A. Reschovsky	250.00	Tax Competition Critics' Session
M. Matthews	250.00	Tax Competition Critics' Session
M. Joyce	250.00	Tax Competition Critics' Session
Total	**$6,107.95**	

Personal Services Product Contracts
FY 1987

Contractor	Date of Order	Amount	Time Frame	Account
Salaries and Expenses				
J. Roberts	12/10/86	$ 4,800	12/15/86-1/16/87	Salaries & Expenses
M. Lawson	3/12/87	4,500	4/1-9/1/87	Salaries & Expenses
M. Lawson	5/7/87	52,061	9/15/87-9/14/88	Salaries & Expenses
M. Menchik	3/27/87	25,500	3/29-11/30/87	Salaries & Expenses
K. Walker	6/1/87	4,500	6/1-9/30/87	Salaries & Expenses
M. Pagano	8/3/87	6,250	8/3/87-4/30/88	Salaries & Expenses
R. Berger	8/18/87	1,500	8/18/87-9/11/87	Salaries & Expenses
M. Sawicky	8/18/87	1,787	8/18/87-9/30/87	Salaries & Expenses
L. Dursthoff	8/19/87	20,333	9/14/87-9/13/88	Salaries & Expenses
S. McCray	8/24/87	26,000	8/24/87-7/31/88	Salaries & Expenses
S. Percy	9/1/87	20,325	9/1/87-8/31/88	Salaries & Expenses
D. Kenyon	9/16/87	20,000	9/16/87-12/11/87	Salaries & Expenses
A. Richter	9/17/87	7,500	9/17/87-6/1/88	Salaries & Expenses
R. Parks	9/24/87	25,000	9/12/87-12/30/88	Salaries & Expenses
J. Zimmerman	9/24/87	23,000	9/22/87-5/25/88	Salaries & Expenses
R. Williams	9/24/87	5,000	9/24/87-12/15/88	Salaries & Expenses
D. Dean	9/29/87	22,000	9/29/87-8/5/88	Salaries & Expenses

Trust Funds

CONTRIBUTIONS

Contributions from state and local governments and nonprofit organizations are used to strengthen the Commission's clearinghouse, information and policy education services to state and local governments, and to improve intergovernmental coordination and relations. Specific items financed by this account include the Commission's quarterly publication, *Intergovernmental Perspective*; printing of Commission reports; summaries of full Commission reports published as the *In Brief* series; and reprints of popular out-of-print but timely Commission reports.

Because of the reduced appropriation, the Trust Fund will be utilized more than ever for "discretionary funding" of contract research, printing, marketing, etc.

Program and Financing (in thousands of dollars)

55-0100-0-1-806		87	88	89 Request
	Program by activities:			
10.00	Total obligations	33	130	155
	Financing:			
17.00	Recovery of prior year obligations	-7	. . .	. . .
21.40	Unobligated balance available, start of year	-8	-104	-104
24.40	Unobligated balance available, end of year	104	104	104
60.00	**Budget authority (appropriation)** (permanent, indefinite)	122	130	155
	Relation of obligations to outlays:			
71.00	Obligations incurred, net	33	130	155
72.00	Obligated balance, start of period	103	33	33
74.00	Obligated balance, end of period	-33	-33	-33
78.00	Adjustments in unexpired accounts ...	-7	. . .	. . .
90.00	Outlays	97	130	155

Object Classification (in thousands of dollars)

55-0100-0-1-806		87	88	89 Request
21.0	Travel and Transportation of persons	4	5	20
22.0	Transportation of things	. . .	5	10
23.3	Communications, utilities, and miscellaneous charges	3	10	30
24.0	Printing and reproduction	. . .	30	20
25.0	Other services	26	75	75
31.0	Equipment	. . .	5	. . .
90.0	Total obligations	33	130	155

State Contributions Received
FY 1987

State	Amount
Alaska	$ 5,000
Arkansas	2,000
California	13,000
Connecticut	3,000
Delaware	2,500
Florida	3,000
Indiana	7,000
Kentucky	6,000
Louisiana	2,250
Maryland	2,250
Michigan	3,100
Minnesota	3,000
Missouri	2,250
New Hampshire	5,000
New Jersey	7,000
New Mexico	3,900
North Carolina	3,000
North Dakota	1,150
Ohio	6,650
Oregon	2,250
Pennsylvania	9,000
Rhode Island	5,000
South Carolina	6,000
Tennessee	6,000
Virginia	7,000
Washington	2,250
Totals 26 States	**$118,550**

Honorariums Received
FY 1987

Payee Amount	
University of California	$800.00
Minnesota Senate	500.00
University of Washington	2,000.00
State of Wisconsin	400.00
State of Wisconsin	200.00
Total	**$3,900.00**

ALL ACCOUNTS

Equal Employment
9/30/87

Over the last eleven years, the number of staff employed by the Advisory Commission on Intergovernmental Relations has decreased from 36 full-time equivalent employees (FTEE) in 1976 to 21 FTEE in FY 1987. The 42% reduction in FTEE during that period left very few opportunities to recruit minorities and women. For lack of funding, few positions are being filled as staff members resign or retire.

In FY 1986, there were 19 FTEE on the staff of the Commission. In FY 1987, that number has increased to 21. There were two changes in the composition of the ACIR staff during this period. White males increased from five to six, and white professional females increased from six to seven.

From FY 1986 to FY 1987, the number of secretarial/support staff remained the same—four black females and two white females remain. ACIR continues to have one black male technician/supervisor and one black male technician.

Level	Blacks		White		Asian Americans		American Indian	
	M	F	M	F	M	F	M	F
Full-Time Professional	—	—	6	7	—	—	—	—
Technician/Supervisory	1	—	—	—	—	—	—	—
Technician	1	—	—	—	—	—	—	—
Secretarial	—	4	—	2	—	—	—	—

Operating Cost: Because of the small size of the staff and the overlapping duties within the administrative services section, no records are maintained of time spent on EEOC expenditures. Less than 1% of the time of each of three EEOC coordinators is spent on EEOC. This involves fulfilling reporting requirements, attending meetings, and keeping up to date on changes in EEOC rules and regulations.

Publication Costs (including estimates)
FY 1987

Title	Pages	Press Run	Print Cost
Devolving Selected Federal-Aid Highway Programs and Revenue Bases: A Critical Appraisal (A-108)	56	2,500	1,400*
Fiscal Discipline in the Federal System: National Reform and the Experience of the States (A-107)	64	2,500	1,643
A *Catalog of Federal Grant-in-Aid Programs to State and Local Governments* (M-153)	44	2,500	2,063
Federalism and the Constitution: A Symposium on Garcia (M-152)	88	2,500	2,507
Significant Features of Fiscal Federalism: 1987 Edition (M-151)	304	5,500	9,528
Measuring State Fiscal Capacity: Alternative Methods and Their Uses (M-150)	181	2,500	3,456
Estimates of the Revenue Potential from State Taxation of Out-of-State Mail Order Sales (SR-5)	9	2,000	1,939
Local Perspective on State-Local Highway Consultation and Cooperation: Survey Responses from State Associations of Local Officials (SR-4)	48	2,000	1,754
Summary of Welfare Reform Hearings 1986 (SR-3)	31	2,000	863
Preliminary Estimates of the Effect of The 1986 Tax Reform Act on *State Personal Income Tax Liabilities* (SR-2)	16	2,500	750
Changing Public Attitudes on Governments and Taxes (S-16)	60	2,500	2,302
The Transformation in American Politics: Implications for Federalism (B-9)	88	2,500	2,000*
Intergovernmental Perspective:			
"Federalism in 1987: Challenges & Choices" Winter 1987, Vol. 13, No. 1	40	24,000	10,499
"American Constitutions: 200 Years of Federalism" Spring 1987, Vol. 13, No. 2	32	24,000	8,196
"State-Local Relations: The Search for Balance" Summer/Fall 1987, Vol. 13, No. 3/4	40	24,000	10,998

*Estimated.

Operating Improvements

The investment in a *Interleaf* desktop publishing system has been not only a significant operating improvement, but it has also resulted in far greater productivity of the Commission. The equipment has eliminated the need for typesetting services while at the same time reducing the time needed for publication production from several months to weeks and, in some cases, days. The equipment has enhanced the quality of ACIR publications, announcements, brochures, and other presentations as well.

An additional investment in postal processing equipment has enabled ACIR to move much of its mailing activities in-house, resulting in reduced expenditures and significant time savings. While it would be impossible to bring in-house all of our distribution activities, this area may well provide further improvements during FY 1988 and FY 1989.

During FY 1988 the Commission is planning on bringing in-house many of its computer time sharing and mailing list functions. These two activities are the only other major activities predominantly performed outside. The acquisition of a tape reader should facilitate both of these transitions resulting in reduced expenditures and increased productivity.

Financial Management Systems

The Advisory Commission on Intergovernmental Relations has just completed its first outside independent audit of accounting systems, accounting procedures, project management procedures, and financial management and integrity. The appropriate reports will be sent to the Congress and the Office of the President before the end of May 1988.

As the result of official Commission action, the outside audit of ACIR functions, systems, and processes will be done quadrennially.

RESEARCH STUDIES

Senator DECONCINI. Mr. Hawkins, I have a number of questions for you, but time is running. There is one that I would like you to address for us.

It seems to me that in these tough and lean budget times, some of the research that is being conducted by the Commission, in my judgment, seems to be low priority, and I welcome your disagreement with that.

For example, on page 15 of your justification, you outline a study you did called "Understanding State Constitutional Law: Cases and Commentaries." This report would be used as a primary case book in American State constitutional law. This may be a good project for law professors at a law school, but I am not sure that the American taxpayer necessarily should support it.

Another project, called "The Congress, the States, and Federalism," again sounds like a good doctorate thesis or a textbook for public administration classes that a professor might want to pursue.

In light of your precarious budget situation, wouldn't it make sense to really root out these projects that should be pursued privately by academics, law schools, and what-have-you?

LONG-TERM OR SHORT-TERM RESEARCH

Mr. HAWKINS. Senator, you are bringing up an issue that has been at the forefront of the Commission for the last 5 years.

As you know, six of our members are from the House and the Senate. We have had this running issue, which we haven't resolved yet, and part of it is whether we should be involved in the day-to-day issues facing the Congress, and we try to do some of that. On the other hand, Congressman Weiss thinks that we ought to be involved in more long-term issues. What you are seeing here is really a balancing act in response to these pressures.

Let me say that some of the research is academic in the sense that State constitutional law is an area that has received very little attention by academics. It is also a very active area of the law these days. What we are finding is that a lot of so-called, I hate to use the term, but a lot of liberals are now using States to achieve policy objectives, and they are very interested in this issue.

Our commissioners, especially our Governors and State legislators, felt that it was an area that we ought to start highlighting, that we ought to bring forth the issues, both the federalism issues and the relevance of State courts in solving a lot of problems that should not go into the Federal system. That is the genesis of that set of concerns.

Senator DECONCINI. It is a very small amount of money, the way we operate around here at least.

Do you have any idea, when you get into something like this, whether or not there already are some theses or law review articles on Congress, States, and federalism?

Mr. HAWKINS. Yes.

Senator DECONCINI. You found that there were none?

Mr. HAWKINS. It is an area where there aren't really many academics involved in it. It is a new area, and we were just trying to highlight it. It is not taking a lot of our resources.

Senator DECONCINI. I don't mean by any means, by raising that, to belittle the fine work, it is just the justification of it.

Mr. HAWKINS. We had this dilemma, Senator. The Commission was actively involved in federalism reform efforts not only for the administration but for the Congress, and for the various interest groups, in providing all of the data on which all of the projections were done, spinning out different alternatives.

We are always active when there is something hot on the agenda at the Federal level, but there hadn't been a heck of a lot that has been active at the Federal level. In fact, that is one of the reasons, if you look at our research agenda, more and more of it is focusing on the State and local relations, which are becoming critical.

We are doing a series of very practical projects on highway turnbacks.

Senator DECONCINI. Let me just ask you this, if you weren't in existence, what do you think Governors would do if they wanted to know something about Congress, State, and federalism? Do you think that the Governors Conference would sponsor that, or the more wealthy States would take on the project?

Mr. HAWKINS. I am sure they would. In fact, one thing we have seen since our creation is the capacity of the State and local associations to generate a lot of their own data, and I think it is a very healthy thing. Our role, really, is trying to be an honest broker, because when our Commission meets, NCSL has one position, the Governors have another, the cities have another.

One of the things that we try to do is to see if we can't provide the Congress with solutions that bring this together, and provide Congress with the highest level of information so that when these people come up to you with their own special axes, you have access to other types of information.

Senator DECONCINI. Senator Durenberger is a big proponent of your efforts. He asked that a letter, dated March 18, to Senator Domenici appear in the record from Senator Durenberger.

[The letter follows:]

LETTER FROM SENATOR DAVE DURENBERGER

MARCH 18, 1988.

Senator PETE DOMENICI,
Committee on Appropriations, Subcommittee on Treasury, Postal Service, and General Government, U.S. Senate, Washington, DC

DEAR PETE: Having been a Senate member of the Advisory Commission on Intergovernmental Relations for 7 years, I have had ample opportunity to observe and participate in the outstanding work done by the Commission. ACIR is a special and essential forum that allows Federal, State, and local officials and private citizens to meet as equals on neutral, bipartisan ground to debate and make recommendations on vital issues affecting our Federal system.

The value of ACIR is all the more important today as we confront the need to economize on Federal expenditures and make hard choices among priorities, and as State and local governments respond to a 10-year decline in grant-in-aid and to increased responsibilities for meeting the needs of our citizens. ACIR is in the midst of the ferment occurring in our Federal system and is addressing a wide range of issues vital to intergovernmental relations. Just last week, for example, ACIR brought together more than 100 Federal, State, and local representatives and nonprofit representatives to identify intergovernmental issues affecting public responses to homelessness. Now, more than ever, it is essential to promote the efficiency and accountability of the 83,000 governments in our Federal system by clarifying responsibilities and improving coordination and cooperation.

I would like to point out that ACIR itself has been a model of efficiency and economy. Despite being subject to a 35.8-percent reduction in congressional appropriations since 1985, despite a reduction in the number of full-time employees from 27 to 19 over the last 3 years, and despite a reduction in leased office space from 14,600 to 9,400 square feet, ACIR has not only maintained a high level of quality productivity, but actually increased its productivity. If our constitutents want to know how the Federal Government can get more bang for the buck, then we ought to show them what ACIR has been doing.

It is for these reasons that I strongly urge the Senate to support an appropriation of at least $1,275,000 for ACIR in fiscal year 1989. An appropriation less than $1,275,000 would seriously damage ACIR and send a punitive signal to an agency that has exceeded cost-cutting expectations. A $338,000 reduction from $1,378,000 in fiscal year 1988 to $1,040,000 in fiscal year 1989 as suggested by the 1986 conference committee report would require reductions in absolutely essentail personnel. As a result, productivity would decline, and the very viability of the Commission would be called into question.

It is very important that we maintain ACIR as a vital forum able to identify and respond to the many intergovenrmental issues that so strongly shape the ability of all of our governments and the Congress itself to be responsive, efficient, and accountable to the people.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. There will be some additional committee questions which we will be submitting to you for your response.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

A $1,040,000 Appropriation

Senator DeConcini: As you point out in your statement, the Conference report on the FY 1986 funding measure for the Commission called for ACIR to cut its budget to $1,040,000 in federal funds by fiscal year 1989. Your fiscal 1989 budget request calls for $1,275,000 in federal funding.

What would be the effect on your operations if this Committee were to hold you to the 1986 agreement that called for a budget of only $1,040,000? Be very specific about what you would have to do without, etc.

Mr. Hawkins: If our appropriation request was cut from the OMB-approved level back to our original submission and the Conference report amount of $1,040,000, ACIR would need to take the following kinds of specific actions to survive the $235,000 difference.

The following nonpersonnel savings could be achieved, in part, because of the necessary personnel changes that would occur: (1) cancel the parking space of the Executive Director to save $1,500; (2) combine publication mailings to save approximately $7,000 in postage, although this does not take into account an impending 17 percent postal increase; and (3) because of personnel changes, reduce rental space to save $40,000. Total nonpersonnel savings would be $48,500.

Personnel changes would likely involve reductions in the number of hours worked by some staff members, not filling positions becoming vacant, and terminations. These are the changes we would have to make: (1) one research analyst and the budget and management officer would be reduced from 160 to 136 hours per pay period to save $18,000; (2) the retiring personnel officer and director of publications would not be replaced to save $102,000; and (3) a warehouseman/messenger, administrative assistant, and research associate would be released to save $78,000. Total personnel savings, including benefits, total $198,000.

Personnel and nonpersonnel reductions, under this plan, would result in cost reductions of $246,500. It must be remembered, however, that these cuts will result in some expenditure increases due to unemployment compensation, possible overtime, and the possible need to contract out some of the work these people have been doing.

Senator DeConcini: Last year during the hearings Mr. James Dwight sent a warning shot across our bow that the Commission may hit bottom in terms of its abilities to proceed further with its research in the absence of more state contributions or other contributions to the agency.

Your statement seems to say the same thing.

Perhaps the time has come for this fine agency to think about either closing down its mission or requesting a change in its underlying charter in order to launch into new areas where there may be more interest.

What are your thoughts as you hit the doorstep of fiscal year 1989? Where is this agency going?

Mr. Hawkins: The mission of ACIR is as important, if not more important, as ever, and the ability of ACIR to carry out its mission is as strong as ever, despite reduced resources. It would, moreover, be especially ironic to think about bringing ACIR's mission to an end just as we celebrate the 200th anniversary of our federal Constitution.

To be frank, and I mean no disrespect here, if there is a decline in interest in ACIR's mission, it lies in the Congress, as reflected in the fact that the Congressional members of the Commission attend relatively few Commission meetings. Meanwhile, the state and local members, representatives of the federal executive, and private citizen members attend meetings with great regularity. The Commission would welcome greater Congressional participation, just as state and local officials would welcome greater Congressional attentiveness to the vital intergovernmental issues that affect state and local governments today. There is a critical need for the Congressional partners in the federal system to sit down with their state and local partners at the ACIR table.

Even so, as we see it, ACIR is on an upward path, as reflected in our output and by the White House' support as evidenced by the increased OMB-approved appropriation request. An agency on a downward slide would probably have been devastated by the appropriation cuts experienced by ACIR since 1985. Instead, ACIR tightened its belt, increased productivity, and raised other revenue. If there really were a lack of interest, then I do not believe that ACIR would have been as successful as it has been in selling its products, raising state contributions, securing Commissioner participation in meetings and other activities, attracting people from around the nation to give freely of their time to review research reports and participate in thinkers' and critics' sessions, and recruiting well qualified contractors to conduct research at modest costs.

ACIR remains a prestigious research institution, and it is hard at work on a multi-year research agenda that covers a wide range of important issues in federalism and intergovernmental relations. ACIR remains an honest broker among contending interests that operate in the intergovernmental arena. ACIR remains a key forum for identifying, debating, discussing, mediating, and resolving intergovernmental issues. ACIR remains an important point of contact for private citizens, scholars, and federal, state, and local officials seeking information.

There is another important role ACIR fulfills, one already performed in a small, largely unnoticed way. ACIR increasingly shares information with foreign governments. A Japanese commission recently purchased every publication issued by ACIR since 1959. ACIR staff meets with an average of three foreign delegations per month, many of them from Third World nations. It is, by the way, painful to charge the Third World visitors for these publications, and they usually want a bundle of them.

Mounting evidence indicates that highly centralized regimes, which prevail in most nations, are detrimental to the development of democracy, human rights, and economic prosperity. In recent years, therefore, there has been a tremendous increase in interest in federalism and decentralization around the world, and when people look to the U.S. as a model, ACIR is one of the federal agencies they contact. Visitors come with a host of questions, often very nitty-gritty questions about tax systems, cost-sharing arrangements, span of local authority, and so on. In February 1988, ACIR hosted an international conference on intergovernmental decentralization.

Perhaps this is a new mission that the Congress would want to consider supporting for ACIR. As an independent, bipartisan, advisory commission with a reputation for being an honest broker, ACIR could play an important role in helping to promote better governance arrangements abroad. USIA, the Department of State, the Congress, and the White House regularly send foreign delegations to ACIR. With our reduced staff and resources, however, we have begun turning down more and more requests for consultations with these delegations. Furthermore, we perform these services at no charge to these agencies. With more resources from the Congress, ACIR could establish more cooperative relations with these other agencies and become a vital center for disseminating information that can go a long way toward helping to resolve governance problems in other nations.

Another possibility would be to expand the membership of the Commission to include new constituencies. The Congress and the Commission have considered this possibility in the past, and I would be happy to ask the Commission to consider this idea again. In doing so, however, we should keep several things in mind. First, the Commission already includes key federal, state, and local general-purpose governments in the federal system. Second, adding more groups would mean, among other things, adding special-purpose local governments. Unless representation from general-purpose governments were increased as a counterbalance, the Commission would be in danger of becoming a local government commission. Third, if total membership went up, the Commission could become unwieldy, and the costs of holding meetings would increase proportionately. Fourth, an increase in membership would not only increase costs but also spread the research agenda more thinly across issues of more particular rather than general interest. Increasing the membership on a declining resource base would make it more difficult for ACIR to carry out its basic mission. Thus, it would be important to increase the funding available to ACIR to support an expanded size and mission.

I would like to emphasize, though, that ACIR has a completely open agenda-setting process. We actively solicit ideas from all quarters. No one is left out of the picture simply because they are not directly represented on the Commission. Perhaps, if the Congress wishes, ACIR could, with support, take on a special project each year for the Congress. We have done a number of projects directly for various Congressional committees in the past, including the appropriations subcommittees, and perhaps the Congress would like to formalize this process as a way of strenghtening the bridge between the Congress and ACIR.

To sum up, ACIR is not on a downward slide. ACIR is on an upward ride. ACIR has not hit bottom in terms of state contributions and other revenue. ACIR is still climbing, though inevitably we must reach a plateau. ACIR knows where it is going; believes that it is getting there by a very efficient, cost-effective route; and asks only that the Congress maintain the upward momentum by establishing a basic support plateau equal to $1,275,000 in FY 1989. At that level, which is still well below ACIR's Gramm-Rudman-Hollings assignment of $1,406,000, we can maintain our momentum and fully carry out our mission in this turbulent era of declining federal aid, increased competitiveness, rising mandates, complex regulatory issues, federal court activism, and hyper-intergovernmentalization.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

Senator Domenici: The fiscal year 1988 appropriation for the ACIR is $12,000 below the level of the original fiscal year 1988 request. It was the Committee's intent that the reduction be taken in travel. Is that $12,000 reduction in travel being made in fiscal year 1988? If not, what savings in travel are being realized?

Mr. Hawkins: It was the intention of ACIR at the time of its original budget submission to OMB to increase funds for travel as part of our cost-effective effort to hold more conferences and meetings for the purpose of producing more research and revenue. However, as a result of the Committee action, we will indeed reduce travel expenditures funded by appropriated monies by the amount requested. The reduction will complicate the task of getting the best people available to participate in our conferences, critics' sessions, and thinkers' sessions, but the reduction can be achieved without an overly detrimental effect on conference and research quality.

Senator Domenici: The fiscal year 1986 Conference Committee report set forth a three-year cost-sharing directive to allow the Commission to achieve a reduced appropriation level of $1,040,000 by fiscal year 1989. Your fiscal year 1989 budget request of $1,275,000 is $235,000 above that appropriation limit set forth by the Congress. You say that funding below the level requested for fiscal year 1989 would "cripple ACIR's research program and challenge the very viability of the Commission."

Without cutting into your research effort, have you explored all possible ways to raise outside revenues to meet the original fiscal year 1989 appropriation goal? For example, have you considered raising your subscription rates and other publication prices and fees for services?

I note, for example, that you consider the ACIR quarterly magazine to be a marketing tool, but your fiscal year 1989 publication costs for this magazine are shown to run you nearly $30,000. Have you considered charging for this publication?

Also, I note that the graph indicating your revenue history projects no revenues from federal research and administrative contracts or private foundations for fiscal year 1988. Have you been unable to secure research contracts from these other sources recently? If so, why?

Mr. Hawkins: I must make one point immediately. ACIR submitted its FY 1989 request to OMB in compliance with the Conference Committee report requesting an appropriation of $1,040,000. The OMB passback raised the amount by $210,000 with an additional $25,000 being added as a result of the civilian pay raise. OMB stated that the "passback reflects *realistic* expectations for receipts from sales of products and contributions to the Trust Fund. As a result, the Budget Authority level is $210,000 greater than ACIR's request for FY 1989. . . . OMB encourages ACIR's efforts to broaden its funding base. . . ."

We have already increased prices for publications. Smaller publications previously priced at $3, are now $5; larger publications were $5, but are now $10. The price of our annual publication, *Significant Features of Fiscal Federalism*, was raised from $10 to $15. Our microcomputer diskettes series, we believe, were originally priced as high as they could be and, in fact, may be too high. Like any seller, we try to maximize revenue by setting prices that are neither too low nor too high for our market. For the most part, we believe that our prices are what the market will bear; further dramatic increases will create a bear market.

It is also important to remember that, as a government agency, ACIR cannot copyright publications. We believe that there is a large secondary market for ACIR reports, a free market that is fed by office photocopy machines. This is especially true for brief technical reports, which may be expensive to prepare and have limited commercial appeal in the first place. In addition, some potential buyers skirt our pricing system by requesting ACIR publications through Congressional offices.

Our major efforts to increase sales revenues have been to intensify marketing efforts and to improve the appearance of our publications to give them a more appealing appearance, so that they do not look like dry government reports.

Arguments for charging a subscription fee for the Commission's quarterly magazine *Intergovernmental Perspective* are outweighed by two major arguments against such a fee: (1) cost ineffectiveness and (2) ACIR's public service mission.

The Commission is charged with disseminating the results of its research and recommendations attendant thereto. *Intergovernmental Perspective* has proved to be the least expensive way of complying with our charge. The publication is ordinarily distributed four times per year to approximately 19,000 readers, including all Congressional offices. This means that we are reaching each reader at an average cost of about 39 cents per copy.

This cost compares quite favorably with the former practice of mailing each research report to approximately 6,500 readers and an announcement to the remainder of our audience at a per unit cost in excess of $2.67 per publication. In a year when ACIR produces from 12 to 25 publications, the cost comparison becomes even more favorable. Now publications in excess of a core distribution of about 600 are mailed only on paid orders. Each issue of the magazine carries ads for recent reports and diskette issuances as well as an order form for all current ACIR products. Our return order ratio shows that we are reaching a responsive market in the least expensive way possible.

Finally, charging a subscription fee would necessitate the establishment of a subscription service to log subscribers and their payments, bill for renewals based on renewal dates, and promote subscriptions. It would also necessitate the reinstitution of additional individual publication promotion pieces for nonsubscribers who would be prospective purchasers of ACIR products. Let me provide a hypothetical analysis with fairly accurate cost estimates.

Say 5,000 people subscribe to the magazine at $12 per subscription. This would produce $60,000 in revenue. The magazine printing costs would decline from $30,000 to $20,000, a savings of about $10,000 due to the reduced number of copies being printed. Note, however, that the unit cost would rise from 39 cents to about $1 for each copy of the magazine. The cost of setting up the subscription service is estimated at $25,000, mainly for one nearly full-time person per year. The net revenue gain to ACIR would be $15,000. But at what cost? To promote the ACIR average of 15 publications to the 14,000 people whole would not subscribe would necessitate approximately eight mailings at an average cost of $2,100 per mailing or a total of $16,800. Thus, a net additional expenditure of approximately $1,800 would be the overall result of charging a subscription fee for *Intergovernmental Perspective*. This estimate of 15 publications, by the way, is low. We produced 21 sales products in CY 1987 and expect to produce more than 25 in CY 1988.

Because *Intergovernmental Perspective* is the Commission's only remaining free publication, and because one of the intentions of Congress in establishing ACIR was to "encourage discussion and study at an early stage of emerging public problems that are likely to require intergovernmental cooperation," the Commission believes it is obligated to continue to give wide distribution to this publication. As an example of encouraging early discussion of intergovernmental issues, the next *Intergovernmental Perspective* will have "point-counterpoint" articles on state corporate anti-takeover laws—an issue that Congress will likely be addressing in an intergovernmental context.

I would like to assure the Committee that the subscription fee concept is continually reviewed by the Commission and has been since the creation of the magazine.

With regard to outside research and administrative contracts, ACIR is in the process of contracting with two federal agencies for administrative services that should produce in excess of $65,000 in revenues. A small contract with a third agency is being negotiated; however, it should be noted that this is an area of potentially diminishing returns as a result of Congressional legislation and OMB directive. In FY 1986 laws were passed and OMB directives issued that made it mandatory for agencies to have their payroll administered by only four entities within the federal establishment. ACIR, which previously had been doing its own payroll and the payroll of two other agencies, quickly found that instead of generating outside revenue of approximately $20,000, we, henceforth, would be required to pay the General Services Administration $18,000 to do our payroll. This caused, in effect, a one-year reduction of $38,000 in funds available to ACIR. OMB is continuing to pursue the limitation on administrative services contracts to the extent that in FY 1989 our revenue from these contracts will be reduced to $15,000.

We are currently pursuing a multi-year research contract with the Ford Foundation. Initial response from the foundation to a large proposal has caused this project to enter what will be a long negotiation stage. No contract has been signed to date. We are also examining other possible sources of foundation funding.

The Commission is currently limiting contract research for other federal agencies for several reasons. First, the research agenda currently being pursued is full in relation to staff resources. Second, ACIR does not believe that it is appropriate to contract for research just to produce revenue. Third, the Commission must not create even the appearance of a conflict of interest by letting contract research direct Commission operations. However, the Commission is always looking for joint funding of proposed projects as well as complete funding for projects that are a part of the Commission's agenda. The *Commerce Business Daily's* contract proposal section is required reading at ACIR.

State Contributions

Senator Domenici: The number of states contributing to ACIR fell from 35 in fiscal year 1986 to 26 in fiscal year 1987. You say that the fact that you are asking for higher contributions may be a reason for the decline. How many contributing states will there be in fiscal year 1988? Did the states which decided to drop out give you any reason for their decision? If so, what seemed to be their general reason for declining to contribute any longer?

Mr. Hawkins: We cannot project with precision the number of states that will contribute to ACIR in FY 1988. There are four basic reasons for this: (1) the majority of state contributions for each fiscal year arrive in July and August, (2) state contributions are highly sensitive to state fiscal conditions, (3) some states are regular contributors while others are occasional contributors, and (4) the increase in contributions that ACIR requested for FY 1987 caused the number of contributing states to drop, thus knocking out our ability to project a trend line on the basis of past behavior. Until 1987, the trend in the number of contributing states had been upward, from 23 in 1980 to 35 in 1986. To date, one state that did not contribute in FY 1987 has already contributed in FY 1988. Two states have indicated that they will contribute in FY 1988 and that miscommunication was the reason for their not making a contribution in FY 1987. No FY 1987 contributor has yet indicated that it will not contribute in FY 1988. With the solicitation effort that is occurring this year, we hope that we can secure contributions from 30 states. FY 1987 appears to have been an aberration, and we are refining our solicitation methods in an effort to increase the number of contributing states to more than 35 in the next several years.

It should also be noted that despite the decline in the number of contributing states in FY 1987, total state contributions increased by 40 percent from $84,750 in FY 1986 to $118,550 in FY 1987.

No past contributor has said that it will not "contribute any longer." Every FY 1986 contributor that did not contribute in FY 1987 has held open the possibility of future contributions. There are only three states in the Union that have not contributed at least once to ACIR since 1976.

The principal reason given by states that contributed in FY 1986 but not in FY 1987 was what, in the automobile business, is called "sticker shock." In compliance with Congressional directives, ACIR asked for sizable increases in contribution levels: for example, from $2,250 to $6,000 and $5,000 to $13,000, based upon state population.

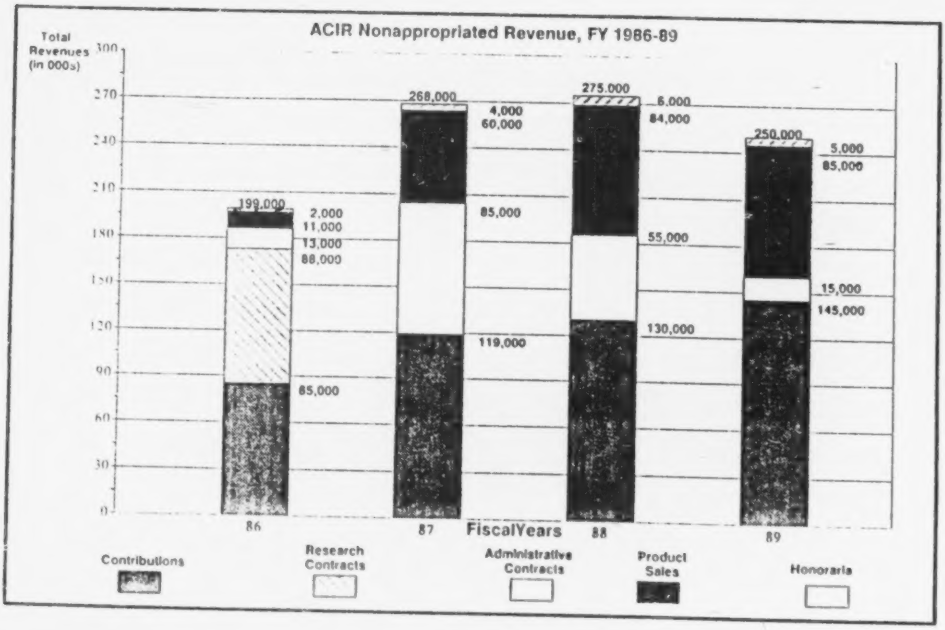
Various states have given other reasons for not contributing in FY 1986, a major one being declining fiscal resources. Indeed, according to the ACIR's latest estimates of state fiscal capacity, 52 percent of all of FY 1987's noncontributing states have been experiencing declining fiscal capacity since 1983, another 24 percent have been experiencing stagnant fiscal capacity, and 24 percent have been experiencing rising fiscal capacity, though in half of those states, the state tax effort score exceeds the state fiscal capacity score.

Quite a number of state officials believe that it is inappropriate for the Congress to direct ACIR to solicit contributions from the states. In an era of declining federal aid to state and local governments and what states regard as a rising number of unfunded Congressional mandates, many states believe that the Congress has an obligation to fund ACIR. Many states feel that they are being squeezed on a number of fronts already, while Congressional funding of ACIR is an infinitesimal portion of the federal budget. Even though requested contributions to ACIR are a small portion of state budgets, the contribution requests are often perceived as yet another irritant and burden in an era of fend-for-yourself federalism, when even the U.S. Supreme Court has said that the states must look to the Congress, not to the courts, to protect state interests in the federal system. Furthermore, 25 states have an ACIR-like entity for state-local relations. The states, not local governments, take the responsibility for funding those agencies. As one state legislator said to us recently, "We fund our own ACIR for state-local relations. Why can't the Congress do the same for the U.S. ACIR?"

Senator Domenici: You say that your outside income from state contributions, sales of products and other sources realized in fiscal year 1988 puts you on target to achieve your goal of $275,000 in outside income for fiscal year 1988. What is your goal for fiscal year 1989?

Would you please provide us with a breakdown of the Commission's outside income, by source, in fiscal year 1986 and 1987 along with that projected in fiscal years 1988 and 1989?

Mr. Hawkins: I have a chart showing our projection of the revenue breakdown. Our goal for FY 1989 is $250,000. This is below the $275,000 projected for FY 1988 due to the fact that our administrative service contract income will fall from $85,000 in FY 1987 to $15,000 in FY 1989 as a result of the Congressional and OMB actions cited before. We expect that revenues from sales and contributions will actually increase by $45,000, but the net loss in total revenue will be about $25,000. We hope that sale and contribution income will increase by approximately $50,000.



Senator Domenici: You mention that 64% of the Commission's typical research projects involve an outside contractor. What is the cost of contracting out a research project versus doing it in-house?

Mr. Hawkins: There is no way of making direct general comparisons between contracting for research and doing research in-house because each project is an entity unto itself. However, several generalizations from past experience have led ACIR to employ contract researchers instead of full-time, in-house researchers, resulting in significant cost benefits without impairing the quality of the final product. Here are some reasons why we use contractors.

First, a contractor works to a specific deadline under a contract with penalty clauses.

Second, a contractor has a known knowledge of the topic prior to initiation of the project—his or her expertise is the reason the contract was awarded.

Third, a contractor receives no fringe benefits and his or her employment is terminated upon completion of the project without benefit of unemployment compensation.

Four, a staff project manager can supervise multiple contractors.

Here are some of the reasons for not using paid staff.

A staff member needs to be "brought up to speed" on projects that are not directly related to his or her field of interest.

A staff member does not necessarily have the same network of information sources that a contract specialist can draw on.

A staff member is retained when a project is completed, or is released with the potential of receiving unemployment compensation.

A staff member receives close to 21% of salary in fringe benefits.

Let me give you two examples. Our project on disability mandates is being done under contract at a cost of $20,325 over a period of one year. We have no in-house staff member with expertise in this field. To have assigned the project to an in-house staff member to devote full time to the project would have cost at least $75,000 in salary and fringe benefits and required as least 20 months to complete. Our project on the new judicial federalism is being conducted under contract at a cost of $24,500 over a period of 14 months. The research and writing for this project are being done by several outstanding scholars who have different fields of expertise. The size and scope of this project is such that no single staff researcher could have done it alone. To have hired staff members of sufficient expertise would have cost us at least $90,000. In short, we have been able to keep costs low while preserving and sometimes enhancing quality by seeking out those persons, especially scholars, who have expertise, commitment, and an interest in specific research areas.

Over the years, as we have indicated in prior testimony, ACIR has been increasingly using contract specialists for research and will continue to pursue this course because it has proven to be economically viable, as evidenced by FY 1987 research production in relation to reduced personnel and budget, and also faster.

ACIR's Consumers

Senator Domenici: Who are the major consumers of your research efforts?

Mr. Hawkins: Consumers of the Commission's research efforts fall roughly into two categories: (1) consumers of data and recommendations for policymaking purposes, and (2) consumers of publications for media, academic, and informational purposes.

Foremost among the policymaking consumers are the Congress and executive branch of the federal government. The Commission is specifically charged to "make available technical assistance to the executive and legislative branches of the federal government in the review of proposed legislation to determine its overall effect on the federal system." The legislative and executive branches of state governments are a second large consumer group for policymaking purposes. Our research efforts are beneficial to them not only in coordinating their relationships with the national government, but also in setting policy toward their subdivisions. One frequently finds ACIR playing a leadership role here because public officials pick up ideas originally generated by ACIR and incorporate them in their own work.

Consumers of the Commission's publications for informational purposes are primarily news reporters, university professors, students of political science and intergovernmental relations, public policy analysts, and libraries. The media makes extensive use of ACIR's data services and research reports. ACIR reports are frequently featured in specific news stories, such as a recent *Wall Street Journal* story on ACIR's state fiscal capacity estimates. Very frequently, the press references ACIR in analyses of broad issues of federal-state-local policy.

Inherently, there is a certain dichotomy between these two consumer groups. A research project may result in highly valuable data and insights for federal and state policymakers, but may not result in a product with commercial appeal. In other words, what is of value to one group may not be of value to the other. Our analysis of the impact of federal tax reform on state income taxes, for example, required substantial research resources and proved extremely valuable to the 42 states that have a personal income tax; yet, the actual "hard copy" product amounted to very few pages, with minuscule sales potential.

We do not consider this a quandary, merely a fact of life in carrying out the Commission's charge. The Commission recognizes that it must continue to provide research for the Congress, and others, that would not be undertaken elsewhere because of a specialized and, therefore, limited but very important audience.

Senator Domenici: What portion of your budget is going to research in fiscal year 1989? What portion to marketing?

Mr. Hawkins: The Commission's budget can be allocated over three areas—research, marketing, and administration. It is anticipated that research will take 59.2 percent, administration 18 percent, and marketing 22.8 percent of our FY 1989 budgetary resources.

ADVISORY COMMITTEE ON FEDERAL PAY

STATEMENT OF MARTIN L. DUGGAN, CHAIRMAN

LAST YEAR'S ACTIVITIES

Senator DECONCINI. Mr. Duggan?

Mr. DUGGAN. Thank you. Mr. Chairman. You may recall that this is my fourth year as chairman of the Advisory Committee on Federal Pay of a 6-year term.

Since my last appearance before you, we have a new colleague, Mr. Warren Keating Hendriks, Jr., who was appointed by President Reagan to succeed Frank Zarb, whose 6 year term had expired. We are looking foward to working with Mr. Hendriks, who is an executive with Korn Ferry International, a leading executive search firm.

This last year has been an interesting one for us, we were asked to make our comments on proposed changes in the PATC Survey and we recommended that any changes that are made be consistent with the needs for determining comparability as established by the law.

We were also invited to comment on the Federal Pay Management Act of 1987 before the House Subcommittee on Compensation and Employee Benefits, and we were invited to appear before the Commission on Federal Career Executives. We are also working closely with the National Commission on Public Service, better known as the Volcker Commission.

In September, we released a special study entitled "Salary Management Practices in the Private Sector." The report was prepared in cooperation with the American Compensation Association and The Wyatt Co. and, with your permission, we would like to make this report a part of our official record.

Senator DECONCINI. It will so appear.

[The information follows:]

SALARY MANAGEMENT PRACTICES IN THE PRIVATE SECTOR

INTRODUCTION

The Advisory Committee on Federal Pay, in cooperation with the American Compensation Association, sponsored a survey to determine private sector salary management practices.

The Advisory Committee was created as an independent agency under the Federal Pay Comparability Act of 1970. The Committee is given responsibility to advise the President on the annual pay adjustment for the 1.4 million white-collar workers and to provide advice on compensation matters.

This research was initiated in response to the Federal Government's effort to more closely follow industry's compensation practices.

The Civil Service Reform Act of 1978 attempted to model the Federal pay and bonus system after the private sector for the top level executives and the next level of managers. A bonus system was introduced for the Senior Executive Service who represent the 7,000 top level people throughout the Executive Branch of government responsible for managing and administering multi-million dollar programs. A similar pay for performance system was adopted for the next level of managers, number about 30,000. Currently, the Administration seeks to place all 1.4 million white-collar workers under a pay for performance merit system to replace the current within grade step system.

Other developments are occurring within the Federal system as well. For example, the Navy Department has initiated a "manage to payroll" concept, which theoretically gives supervisors responsibility for job classification and pay levels in divisions with up to 1,000 people. A demonstration project at the National Bureau of Standards, covering 3,300 workers, will implement a total compensation comparability approach. The McClellan Air Force Base and the American Federation of Government Employees Union have agreed to a demonstration project that incorporates gainsharing of productivity savings.

Several bills have been introduced into Congress to dramatically change the current General Schedule system and give agencies extensive latitude over classification and pay, and to provide additional demonstration projects using a variety of pay approaches, including collective bargaining, locality pay, and other combinations of systems. Other bills would exclude occupations or functions from the Federal pay system. As a result of these developments, the Advisory Committee believed that it was appropriate to determine prevailing industry practices.

This private sector study is valuable to the government in determining what prevailing practices exist. The next step for the government is to determine which practices are appropriate for its own work force. Government is a unique institution; it is not motivated by profit but by service; yet, in carrying out its functions, it must be mindful of efficiency and costs. Widespread changes in the current system may cause disruption and confusion among employees and may or may not be successfully transplanted from the private sector. Thus, before undertaking major revisions, the potential costs, as well as the benefits, require careful consideration. A new Federal incentive system or other pay programs will not be a substitute for an adequate pay package that matches private employers, however. The Federal Government must also be willing to accept prevailing pay rates as well as practices in order to compete in recruiting and retaining a quality work force.

In addition to providing guidance to the Federal Government, the results of this survey will be useful to the private sector participants as well. We were gratified by the number of responses received, 1,415, from a diverse group of companies of all sizes and in all industries. This study, the first of its kind, fills a void in our understanding of actual practices and the overwhelming response is testimony to the need for this information. Many respondents volunteered comments about the survey and indicated they looked forward to seeing the results.

The Advisory Committee and the ACA are deeply appreciative to all who provided thoughtful responses and welcome further comments on the survey and its findings. The Advisory Committee also wishes to thank Dr. Howard Risher, The Wyatt Company, for his contribution and assistance in developing the survey, and Dr. Charles Fay, Professor at Rutgers, for his analysis of the data. The project was conducted under the general guidance of Lucretia Dewey Tanner, Executive Director. Members of the Advisory Committee are Martin L. Duggan, Chairman; Frank G. Zarb, Partner, Lazard Freres; and W. Perry Brown, Vice President and Director of Personnel, American Cyanamid.

Participating Organizations

The survey questionnaire was distributed by the American Compensation Association (A.C.A.) to its United States members. The A.C.A. is the primary professional association in the field of compensation management, with over 10,000 members primarily in the U.S. and Canada. For the purpose of this survey the members in Canada and those who hold academic or consulting positions were excluded from the mailing. The balance of the members, 9,000 practioners, are employed by an estimated 6,000 organizations. (A number of larger organizations have two or more A.C.A. members).

A total of 1,413 questionnaires were returned by the return date. Based on the estimated number of member organizations, this represents a 24 percent return rate. This is the largest survey of its type ever conducted.

The participating organizations represent virtually every sector of the economy. Moreover, the size and characteristics suggest that the participants are fully representative of the economy.

SECTION I

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1. PRIMARY INDUSTRIES:

Durable Goods Manufacturing

10	Building Materials & Equipment
22	Electrical Equipment
126	Electronics & Computer Equipment
17	Fabricated Metal Products
11	Heavy Machinery
15	Instruments & Allied Products
12	Primary Metals
15	Transportation Equipment
47	Other

Non-Durable Goods Manufacturing

33	Chemicals
24	Drugs & Pharmaceuticals
44	Food & Tobacco Products
16	Paper & Allied Products
29	Publishing & Printing
7	Rubber & Leather Products
9	Textile & Apparel Products
29	Other

Finance

142	Banking
105	Insurance
4	Security & Commodity Brokers
40	Other Nonbank Financial

Utilities

4	Air Transportation
60	Gas, Electric & Water
11	Land Transportation
7	Piplines
35	Telecommunications

Services

66	Business Services
39	Education
33	Engineering & Research
109	Hospitals & Healthcare
9	Hotels & Resorts
12	Restaurant & Food Service

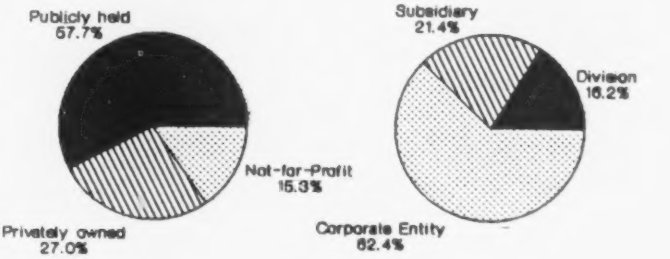
Other Industries

5	Agriculture, Forestry & Fishing
2	Auto & Equipment Rental
9	Construction
36	Diversified
29	Energy
10	Mining & Quarrying
6	Radio & TV Broadcasting
54	Retail Trade
16	Wholesale Trade
54	Miscellaneous

2. SALES/REVENUE GROUPS:

43	Under $5 million
70	$5.0 to 24.9 million
195	$25.0 to 99.0 million
250	$100.0 to 249.9 million
173	$250.0 to 499.9 million
197	$500.0 to 999.9 million
296	$1.0 to 4.9 billion
74	$5.0 to 9.9 billion
63	$10.0 billion and over
25	Unknown or not applicable

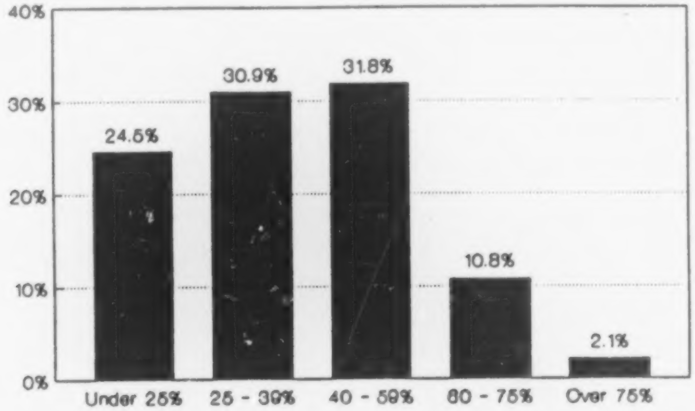
3. TYPES OF ORGANIZATIONS:



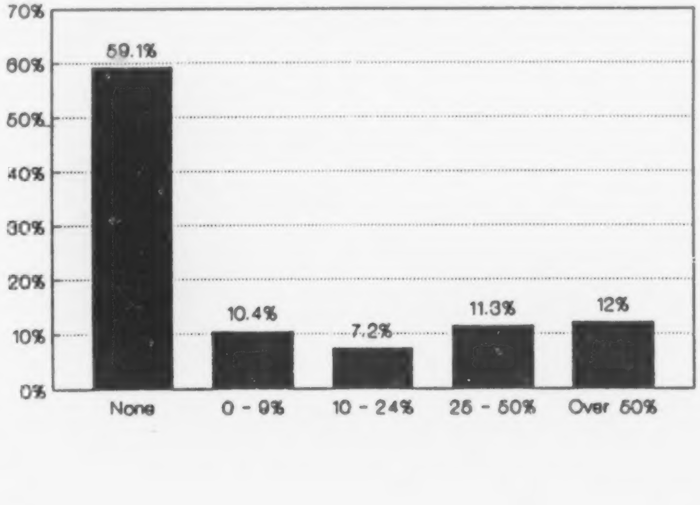
4. **TOTAL EMPLOYMENT OF ORGANIZATIONS:**

Employment Count	Exempt Employees	Total Employees
0 - 100	10.4 %	3.1 %
101 - 1,000	52.7	28.4
1,001 - 10,000	34.8	53.8
10,001 - 20,000	2.1	6.7
20,001 - 50,000	–	5.8
Over 50,000	–	2.2

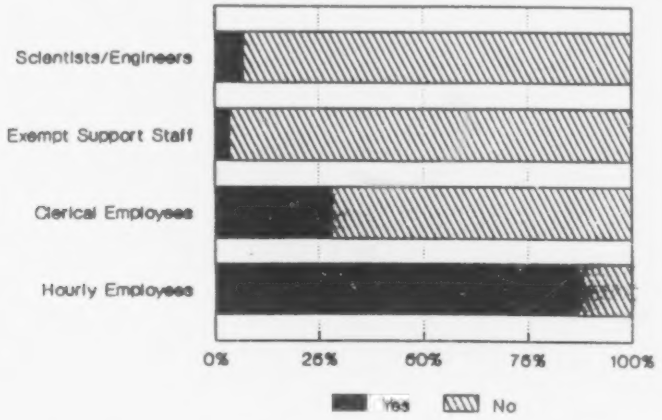
5. **PAYROLL EXPENDITURES AS PERCENT OF TOTAL EXPENSES:**



6. **PERCENT OF WORK FORCE REPRESENTED UNDER LABOR AGREEMENTS:**



7. **FOR PARTICIPANTS WITH COLLECTIVE BARGAINING, EMPLOYEE GROUPS THAT ARE COVERED:**



8. **HEADQUARTER'S LOCATION:** *(10 highest reported states)*

1	California	156
2	New York	101
3	Illinois	94
4	Pennsylvania	92
5	Texas	84
6	Ohio	71
7	Massachusetts	70
8	Michigan	59
9	New Jersey	53
10	Minnesota	49

SECTION II

Job Analysis and Description Practices

It is a virtually universal practice to maintain job or position descriptions. Over 90 percent of the organizations maintain descriptions for at least white-collar positions.

The nature and level of employee involvement in job analysis and the writing of position descriptions depends on the job level. At the management level over half of the organizations involve incumbents directly in this process. Over 25 percent involve other white-collar employees throughout the process.

The most prevalent method for job anlaysis is the interview, with structured questionnaires as the second most widely used method.

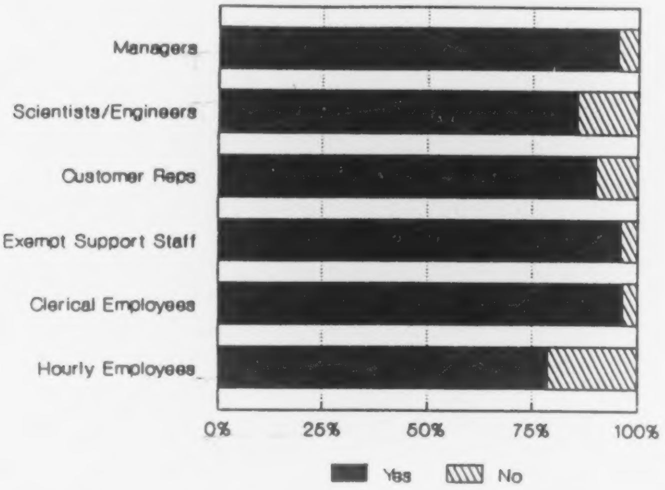
Position descriptions are normally rewritten when jobs are restructured or upon request. Relatively few of the participants review descriptions on a scheduled basis. Less than 25 percent say that 90 percent or more of the descriptions are currently accurate or have been revised within the past two years.

In judging job analysis methods, the two most important criteria were validity and reliability. Significantly, however, the time commitment for job analysis was cited as the most serious current problem.

Although job analysis supposedly provides data for a variety of personnel purposes, respondents felt that their job analysis method best met their needs for job evaluation, performance appraisal and recruitment/selection. These have been the traditional uses of position descriptions.

Over the next few years respondents felt that job evaluation will continue to be the most important use of job content information. This was followed by performance appraisal and recruitment/selection.

9. JOB/POSITION DESCRIPTIONS MAINTAINED FOR EMPLOYEE GROUPS:



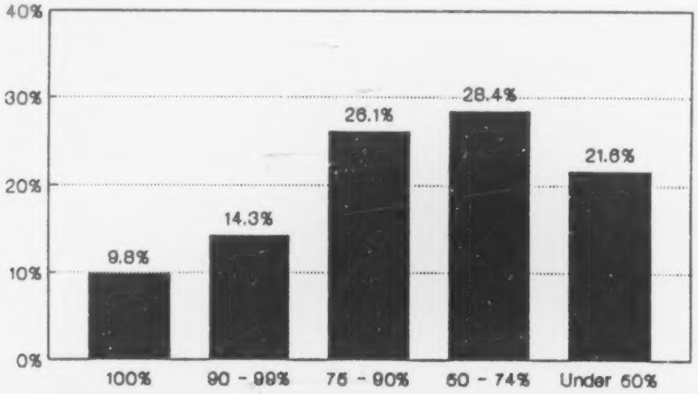
10. INVOLVEMENT IN JOB ANALYSIS/WRITING POSITION DESCRIPTIONS:

	Complete Questionnaire	Personal Interview	Write Draft Description	Review Draft Description	Approve Description	None
Managers	47.8%	44.9%	52.8%	54.5%	41.2%	4.9%
Scientists/Engineers	31.4	25.8	26.6	27.4	12.1	12.9
Customer Representatives	36.0	27.8	25.6	28.3	13.5	14.6
Exempt Support Staff	47.7	37.0	38.2	39.4	17.4	9.9
Clerical Employees	45.7	33.6	23.3	30.0	13.3	18.7
Hourly Employees	25.5	21.0	10.8	16.5	7.7	35.9

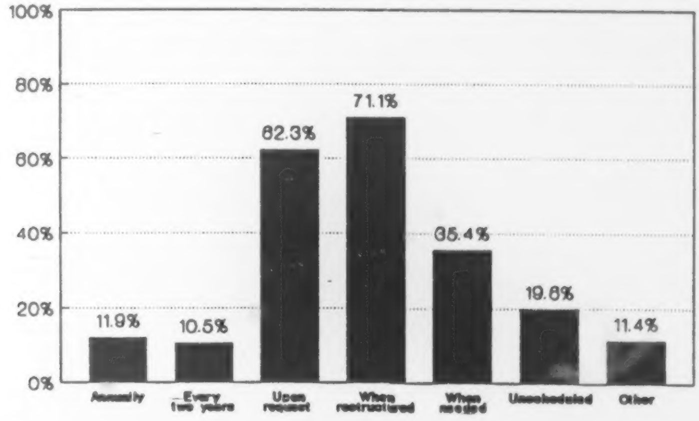
11. METHOD(S) USED TO COLLECT JOB CONTENT INFORMATION:

	Observation	Interview	Open-ended Questionnaire	Structured Questionnaire	Work Sampling/ Measurement
Managers	18.4%	62.5%	27.4%	41.6%	3.6%
Scientists/Engineers	13.4	39.9	18.6	29.3	2.4
Customer Representatives	18.0	43.3	20.6	33.1	3.9
Exempt Support Staff	22.0	56.6	27.1	41.4	4.5
Clerical Employees	31.7	49.8	22.1	45.0	7.8
Hourly Employees	32.9	33.5	12.5	29.4	10.0

12. PERCENT OF POSITION DESCRIPTIONS THAT ARE CURRENT OR REVISED WITHIN PAST TWO YEARS:



13. POSITION DESCRIPTIONS NORMALLY REVISED:



14. CRITERIA FOR JUDGING JOB ANALYSIS METHODS:

	Rank Order Importance	Current Problems
Employee Acceptance	4.0%	31.6%
Management Support	2.6	38.2
Administrative Simplicity	4.4	32.9
Time Commitment	4.8	54.1
Reliability	2.6	30.0
Validity	2.4	31.4

15. HOW WELL JOB ANALYSIS METHOD MEET INFORMATION NEEDS:

Job Analysis Method	Not Used	Relative Adequacy
Job Evaluation	5.4%	3.55
Performance Appraisal	15.8	2.71
Recruitment/Selection	9.5	3.12
Training Needs Analysis	32.4	1.49
Human Resource Planning	31.3	1.97
Career Planning	32.1	1.92
Organization Analysis	28.3	2.20
Position Control	32.2	2.14
Productivity Studies	55.9	1.06
Title Management	31.1	2.18

16. BASED ON THE POTENTIAL USES OF JOB CONTENT INFORMATION, WHICH WILL BE THE MOST IMPORTANT IN THE FUTURE:

Job Analysis Method	Relative Rank
Job Evaluation	100
Performance Appraisal	78
Recruitment/Selection	53
Training Needs Analysis	39
Human Resource Planning	33
Career Planning	23
Organization Analysis	21
Position Control	19
Productivity Studies	15
Title Management	4

Job Evaluation

Virtually every participating organization uses a formal method to evaluate or assign jobs to salary ranges or levels. Of the four basic methods, the most widely used for each of the employee groups is "market pricing." Market pricing is used by itself or in combination with one of the other methods by over 50 percent of the organizations. ("Market pricing" is the use of salary survey data to determine the prevailing wage or salary for a job in the larbor market.)

The second most widely used method is the point factor approach.

Significantly the three other methods (whole job ranking, point factor and factor comparison) are used by most organizations in combination with market pricing. . Over 95 percent of the users of whole job ranking or factor comparison methods use them in combination with market pricing. Similarly, 40 to 50 percent of the point factor users combine this with market pricing. (Since the dominant point factor system provides a basis for comparing positions across organizations, it can be used to generate estimates of market value. Some users of this method did not indicate that they use market pricing.)

Most organizations use the same job evaluation method for all exempt employees. That is to say, if they rely on market pricing, it is used to evaluate all exempt positions. Many organizations use market pricing for all positions.

Among the job evaluation systems with a recognized name, the Hay Guide Chart Method is the most widely used (28 percent of the respondents). This method is referred to by some respondents as a point factor method and by others as a factor comparison method. (This percentage does not reflect respondents that rely on only market pricing or that have an internally developed system.)

Over 50 percent of the participants adopted their job evaluation system since 1980. This reflects a substantial increase in interest in job evaluation over the past few years.

Although the increased interest was to a degree prompted by the pay equity advocates, only 35 percent of the respondents have studied their job evaluation process for its impact on women.

For firms that adopted their system after 1980, or are currently studying new approaches, the most important reason is inadequate confidence in their current system. Other important reasons were the changing nature of jobs and/or organizations, and the need for better job content information. Significantly, complaints from management or employees, and concern for legal liability were the least important concerns.

The most frequently cited changes to make job evaluation systems acceptable in the future are increased emphasis on improving system reliability and validity, and on communication of system objectives and administration. The least important changes would be increased employee participation in evaluation decisions and emphasis on right to appeal or file grievances.

17. METHODS USED IN JOB EVALUATION:

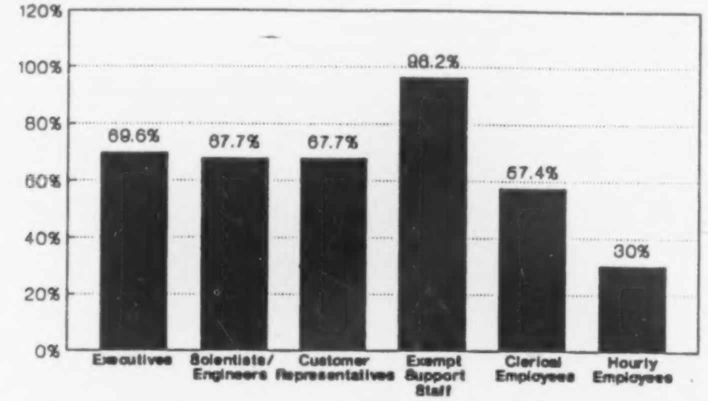
Total Responses:

	Executive/ Managers	Scientsts/ Engineers	Customer Reps	Exempt Staff	Clerical Employees	Hourly Employees
None	2.4%	5.1%	3.4%	1.2%	1.0%	7.1%
Market Pricing	65.0	45.1	49.0	59.6	56.5	46.4
Whole Job Ranking	22.6	14.0	15.6	20.3	20.8	16.3
Point Factor	49.9	37.8	44.6	55.6	56.2	36.4
Factor Comparison	11.5	9.3	10.1	12.1	11.3	7.4
Other	6.4	3.8	4.7	5.4	6.1	9.9

Combinations with Market Pricing:

	Executive/ Managers	Scientsts/ Engineers	Customer Reps	Exempt Staff	Clerical Employees	Hourly Employees
Market Pricing with:						
Point Factor	23.5%	17.9%	18.6%	23.4%	21.8%	14.3%
Whole Job Ranking	19.0	12.1	13.0	17.0	15.7	11.5
Factor Comparison	7.5	5.6	6.5	7.4	6.5	4.1

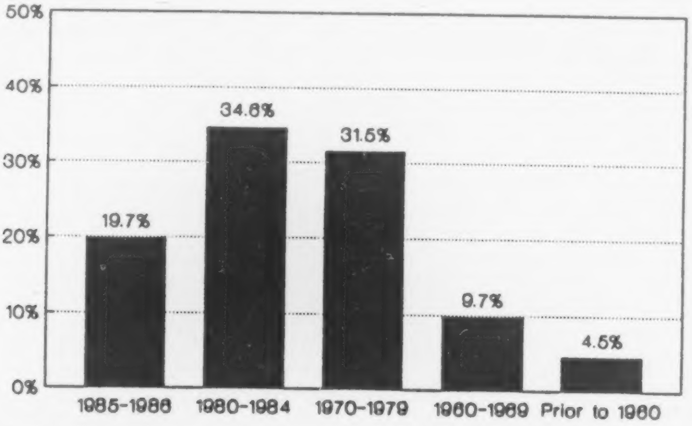
18. EMPLOYEE GROUPS WITH SAME JOB EVALUATION PROCESS AS MIDDLE MANAGEMENT:



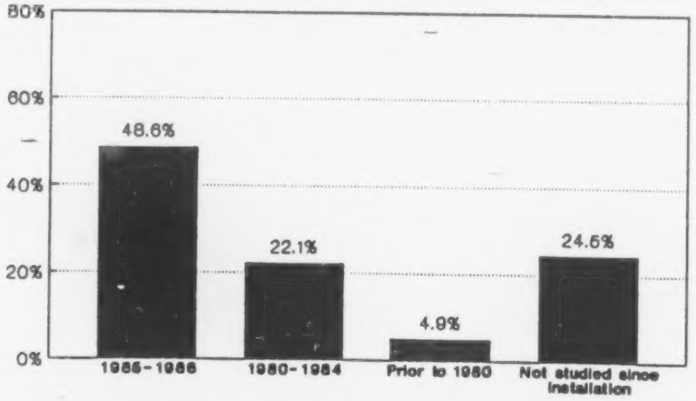
19. JOB EVALUATION PROCESS FOR MIDDLE MANAGEMENT/SUPERVISORY KNOWN AS:

1.8%	American Association of Industrial Management	2.7%	Guideline Method
27.8	Hay Guide Chart	1.3	Evalucomp
3.9	Position Classification	21.3	Custom designed
.6	Decision Band Method	18.4	Other

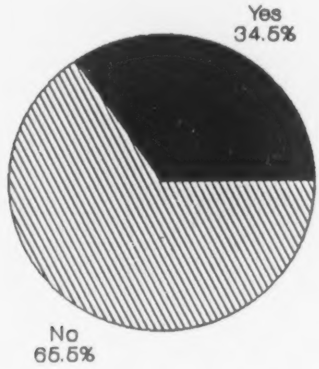
20. THE JOB EVALUATION PROCESS WAS ADOPTED:



21. LAST TIME JOB EVALUATION SYSTEM WAS STUDIED TO DETERMINE IF IT WAS STILL VALID AND EFFECTIVE:



22. JOB EVALUATION SYSTEM STUDIED FOR IMPACT ON WOMEN:



23. IF JOB EVALUATION WAS ADOPTED AFTER 1980, REASONS FOR CONSIDERING NEW SYSTEM:

Adopted	Studying	Reasons for
37.4%	24.0%	Inadequate confidence in current system
13.5	16.6	Inapplicability to certain types of jobs
29.2	27.2	Changing nature of jobs and/or organizations
13.8	14.6	Concern for administrative cost or efficiency
31.0	20.2	Need for better job content information
26.6	21.7	Enhanced market sensitivity
20.1	13.9	Complaints from management
19.2	10.9	Complaints from employees
18.4	15.1	Concern for legal liability
6.7	3.4	Other

24. MOST IMPORTANT CHANGES IN THE FUTURE IN THE DESIGN AND ADMINISTRATION OF JOB EVALUATION SYSTEMS:

41.9%	Increased employee participation in job analysis
13.5	Increased employee participation in evaluation decisions
56.7	Heavier utilization of computers to facilitate administration and to minimize possible bias
78.0	Increased emphasis on improving system validity and reliability
79.0	Increased emphasis on communication of system objectives and administration
4.7	Increased emphasis on right to appeal or file grievances
4.3	Other

SECTION IV

Merit Pay

Merit pay is the basis for granting salary increases to white collar employees in over 90 percent of the survey organizations. Less than 10 percent of the participants communicate annual increases to their exempt employees as either "general" or "cost of living" increases.

In the majority of organizations merit increases are granted annually. However, many organizations vary the frequency based on appraised performance level, with better performers recieving more frequent increases, and/or position in salary range. With the latter concept, increases become less frequent as individual's salary progresses from the minimum of the salary range toward the maximum.

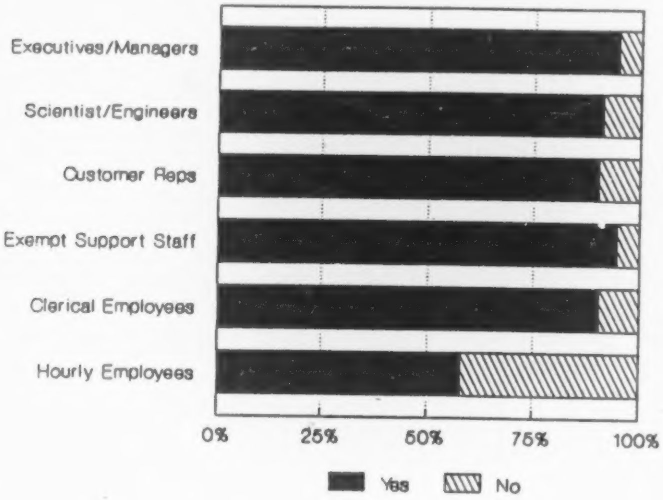
The pattern of performance appraisal results was strikingly consistent. For each of the employee groups the average survey respondent rated approximately 20 percent of the employees as "exceeded expectations" (or highest performance category). The average respondent rated less than 5 percent of its employees as "failed to meet expectations" (or lowest performance category). Despite the theoretical relevance of the normal distribution or bell-shaped curve concept, it is apparent that performance appraisal systems have an inherent bias in practice.

For employees rated as "exceeded expectations", the range of salary increases granted in the most recent fiscal year was 5.5 to 10.0 percent. The increases granted to those who "failed to meet expectations" were on average under 2 percent, with many organizations granting no increase to these employees. Over the last year or so merit increase budgets in the private sector have averaged 4.5 to 5.5 percent (of current salaries) so outstanding performers were receiving up to twice the budgeted increase.

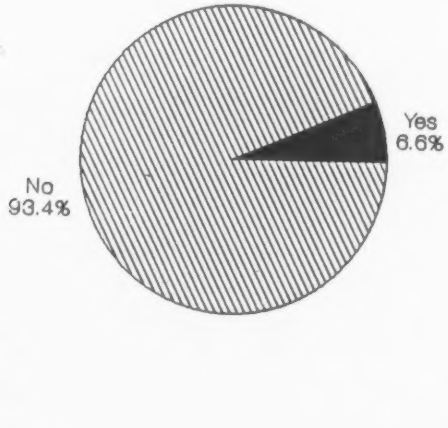
Virtually none of the survey organizations use a step rate or seniority-based salary increase policy for their white collar staff.

Despite recent interest in cash incentives in the professional literature, relatively few firms are using the concept. Currently 14 percent are using the lump sum payment concept in lieu of salary increases. An advantage of lump sum increases is that it emphasizes the size of the increase but does not lock the organization into higher fixed salaries. Group or cash incentive awards (i.e., bonuses) are prevalent only for executives and managers.

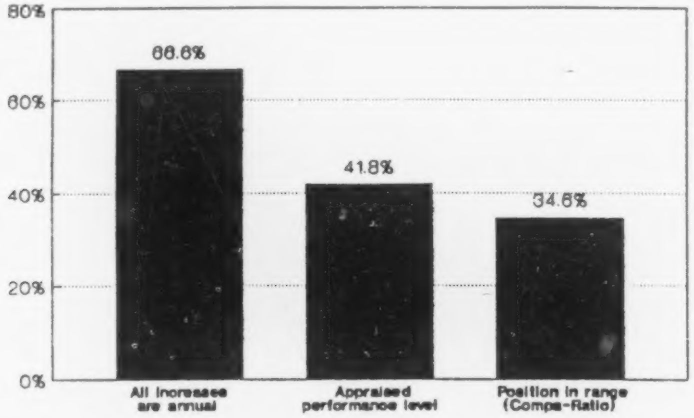
25. FORMAL "MERIT PAY" PROGRAMS FOR EMPLOYEE GROUPS:



26. PORTION OF ANNUAL SALARY COMMUNICATED AS "GENERAL" OR "COST-OF-LIVING":



27. FREQUENCY OR TIMING OF EMPLOYEES RECEIVING MERIT PAY DEPENDENT ON:



28. APPROACHES TO PERFORMANCE APPRAISAL:

	None	Descriptive	Rating	Other
Executives/Managers	4.1%	36.1%	57.9%	30.5%
Scientists/Engineers	4.3	40.5	43.4	17.6
Customer Representatives	4.7	44.1	52.4	16.5
Exempt Support Staff	3.2	57.3	62.8	22.1
Clerical Employees	4.6	49.2	69.6	12.9
Hourly Employees	19.2	28.0	46.9	7.7

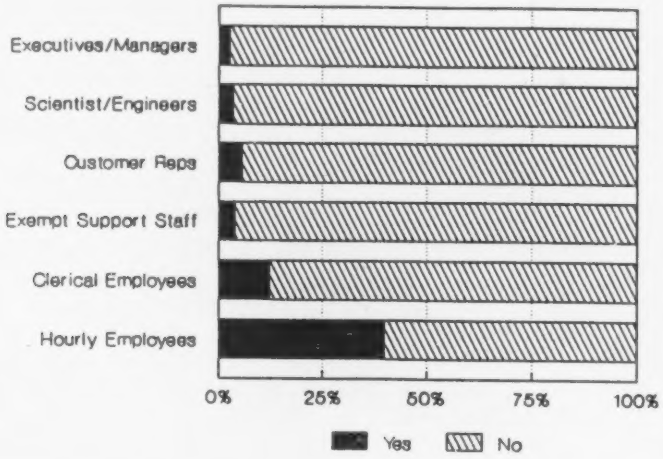
29. IN MOST RECENT FISCAL YEAR, PERCENTAGES OF EMPLOYEES RATED BY PERFORMANCE:

	Exceeded Expectations	Failed to Meet Expectations
Executives/Managers	23.9%	3.0%
Scientists/Engineers	19.7	3.2
Customer Representatives	18.6	3.5
Exempt Support Staff	20.5	3.5
Clerical Employees	19.9	4.0
Hourly Employees	19.4	4.4

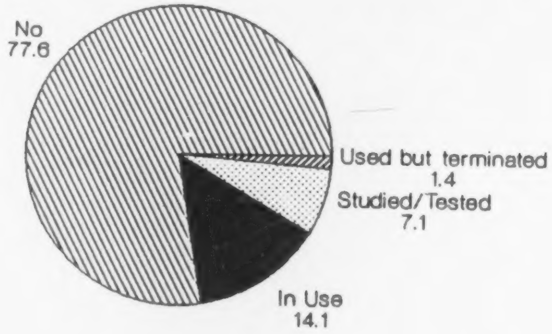
30. FOR THE SAME FISCAL YEAR, APPROXIMATE RANGE OF SALARY INCREASES FOR EMPLOYEES WHOSE PERFORMANCE WAS RATED:

	Exceeded Expectations		Failed to Meet Expectations	
	Lowest	Highest	Lowest	Highest
Executives/Managers	5.8%	11.3%	.2%	1.7%
Scientists/Engineers	5.3	10.2	.2	1.7
Customer Representatives	5.5	9.9	.2	1.6
Exempt Support Staff	5.7	10.3	.2	1.7
Clerical Employees	5.5	9.7	.2	1.6
Hourly Employees	5.1	8.8	.3	1.4

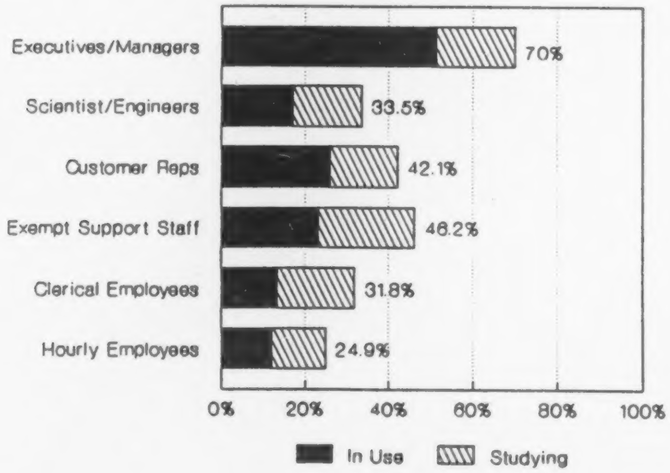
31. USE OF A STEP RATE OR SENIORITY-BASED SALARY INCREASE POLICY:



32. LUMP SUM PAYMENT USED IN EXEMPT MERIT PROGRAM:



33. USE OF GROUP OR INDIVIDUAL CASH INCENTIVES FOR EMPLOYEES:



Use of Salary Structure

Over 95 percent of the organizations administer salaries within a salary structure.

At least three-quarters of the respondents use the same salary structure for each of the white-collar employee groups, except clerical employees where over half use a separate salary structure. It is relatively uncommon for hourly employees to be covered under the same salary structure as managers.

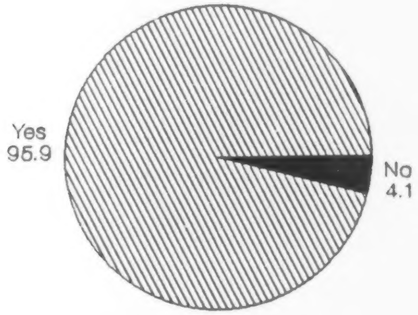
In looking at the salary range width or "spread" (range maximum divided by minimum less 1.00), there is a consistent pattern across the exempt white-collar groups. The majority of survey organizations have a salary range spread of approximately 50 percent. The range spread tends to be less for clerical and hourly employees. This is consistent with the text book rationale for designing salary structures.

Relatively few organizations have tested any innovative structure design concepts.

More specifically, only 10 percent of the respondents use the maturity curve concept to administer salaries for research and development professionals. This concept has been cited in personnel literature for several decades.

A related concept, "broad banding", is used by only 1 out of every 40 respondents (several of these organizations are actually public employers.) The majority of the respondents are not familiar with the concept. This may be significant in light of the government's interest in this concept.

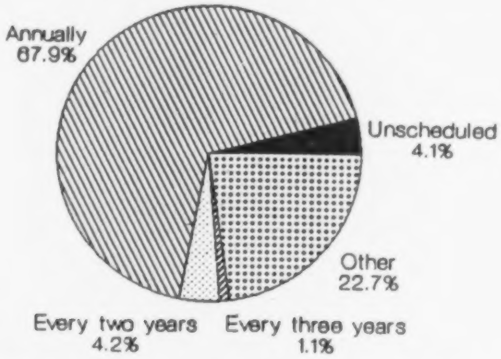
34. ADMINISTERS WHITE COLLAR SALARIES WITHIN SALARY STRUCTURE:



35. EMPLOYEE GROUPS ADMINISTERED SAME SALARY STRUCTURE AS MIDDLE MANAGEMENT:

	Yes	No		Yes	No
Executives	66.8%	33.2	Exempt Support Staff	91.7	8.3%
Scientists/Engineers	87.0	13.0	Clerical Employees	43.4	56.5
Customer Representatives	79.4	20.6	Hourly Employees	26.9	73.1

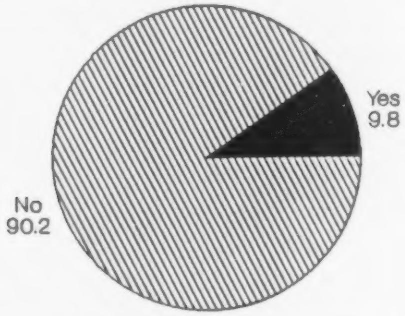
36. FREQUENCY OF REVIEWING AND/OR ADJUSTING SALARY STRUCTURES:



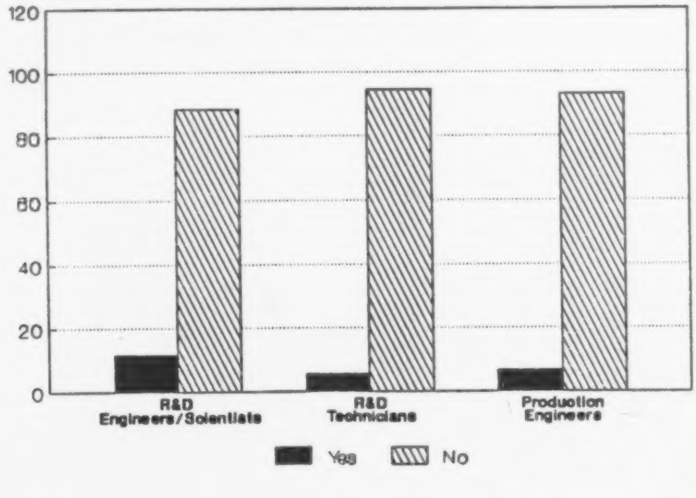
37. SALARY RANGES FOR EMPLOYEE GROUPS (Maximum ÷ Minimum less 1.00):

	Estimated Average	Less than 45%	45 - 55%	Over 55%
Executives/Managers	57%	12%	54%	34%
Scientists/Engineers	52	16	62	22
Customer Representatives	49	27	57	16
Exempt Support Staff	50	21	61	18
Clerical Employees	44	52	39	9
Hourly Employees	40	64	29	7

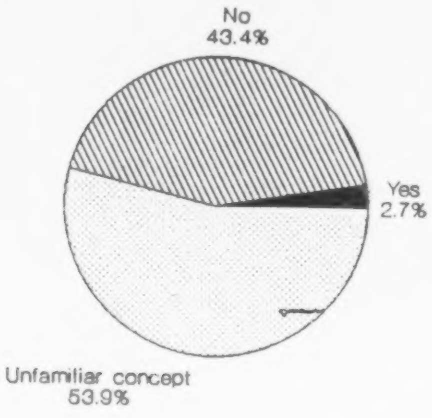
38. TRIED OR TESTED INNOVATIVE STRUCTURE DESIGN CONCEPTS:



39. ADMINISTER SALARIES WITH MATURITY CURVE CONCEPT:



40. ADMINISTER SALARIES WITH BROAD BANDING CONCEPT:



SECTION VI

Locality Pay Practices

Over 80 percent of the survey organizations have employees working in more than one location. Of this group over 70 percent have at least five work locations, with over 20 percent administering salaries at 50 or more locations.

At the clerical and hourly employee level over half of the respondents administer local salaries within two or more salary structures. For exempt employees approximately 75 percent of the organizations use a single salary structure.

For those organizations that use a single salary structure, differences in salaries for employees in essentially the same job would be most likely attributable to geographic pay differences. An alternative to using two or more structures is to assign jobs to salary ranges based on local prevailing pay levels. Thus, in high pay areas, jobs would be assigned to higher salary grades.

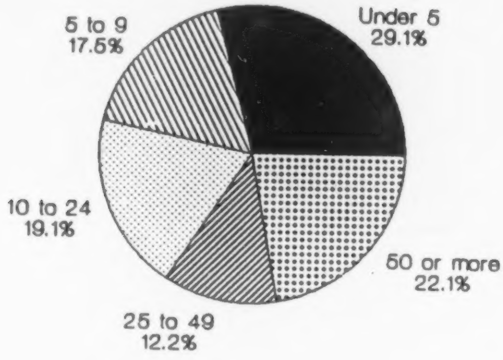
The primary reason for maintaining separate salary structures is local pay differentials. At the management and professional level, industry pay differentials are a secondary reason. However, for clerical and hourly employees, local pay differentials are significantly more important than any other reason.

Organizations use a variety of survey sources to monitor prevailing pay levels in relevant labor markets. Significantly the surveys conducted by the Bureau of Labor Statistics are the least important source of survey data.

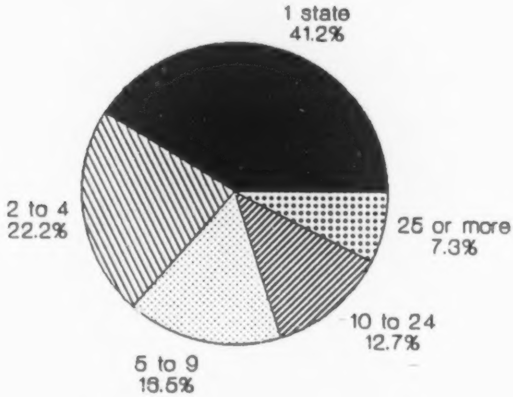
If a respondent planned to establish a new work location, and published survey data for clerical and hourly jobs was unavailable, the organization would conduct a formal private survey (or contract for a survey). This suggests strong interest in understanding prevailing pay levels and in setting salaries at levels appropriate to the new work location.

In virtually all of the survey organizations, the human resouces staff in either the parent company (67 percent) or in a subsidiary/division (27 percent) is responsible for developing and/or adjusting salary structures. Significantly line managers are rarely responsible for these decisions.

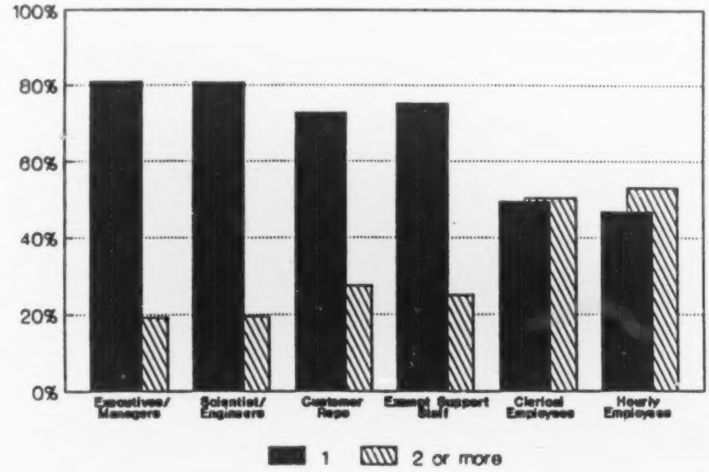
41a. LOCATIONS WITH 10 OR MORE EMPLOYEES:



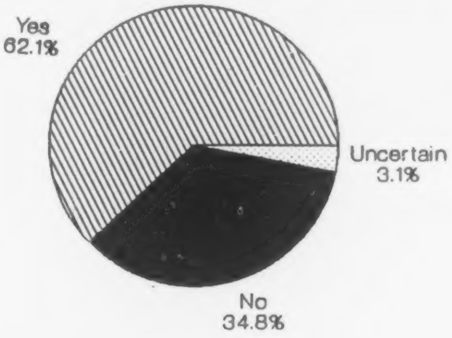
41b. STATES WITH 100 OR MORE EMPLOYEES:



42. ORGANIZATIONS MAINTAINING TWO OR MORE DIFFERENT SCHEDULES:



43. EMPLOYEES IN SAME JOB BUT AT DIFFERENT LOCATIONS PAID AT SAME LEVELS:



NO, MOST LIKELY ATTRIBUTABLE TO:

39.9%	Individual performance differences	2.7	Decentralized administrative differences
2.2	Seniority differences	.3	Uncertain
73.9	Geographic Pay differences		

44. REASONS FOR MAINTAINING DIFFERENT STRUCTURES/SCHEDULES:

	Local Pay Differential	Industry Pay Differential	Business Unit Profitability	Decentralized Administration
Executives/Managers	25.3%	14.5%	6.3%	4.7%
Scientists/Engineers	20.8	13.5	3.8	3.9
Customer Representatives	33.0	10.9	4.7	3.9
Exempt Support Staff	37.5	16.4	5.1	6.3
Clerical Employees	82.8	12.1	5.0	8.2
Hourly Employees	63.4	11.8	4.7	8.4

45. HOW DO YOU MONITOR THE LOCAL OR INDUSTRY PAY DIFFERENTIALS:

40.2%	Survey conducted by the Bureau of Labor Statistics
63.1	Surveys sponsored jointly by other area employers
68.7	Surveys sponsored by industry or professional associations
57.1	Surveys conducted by consultants or private survey organizations
55.4	We conduct our own surveys

46. RESPONSIBLE FOR DEVELOPING AND/OR DETERMINING PERIODIC ADJUSTMENTS FOR EXEMPT EMPLOYEES:

67.6%	Parent company human resources staff
27.2	Subsidiary/division human resources staff
1.1	Local line managers
.2	Consultant
3.9	Other

47. HOW WOULD YOU ESTABLISH NONEXEMPT PAY LEVELS FOR NEW WORK LOCATION:

74.4%	Conduct a formal private survey (or contract for a survey)
7.8	Rely on the available published data
8.5	"Guesstimate" prevailing pay levels based on a few contacts with other employers
9.4	Utilize a salary structure used in other locations

Salary Planning

In a typical year the most important consideration in developing the salary increase budget is the company's financial performance. As survey data for recent years shows, company's that are experiencing less than satisfactory financial performance often control costs by holding down salary increases or by actually reducing salaries. The next most important consideration is maintaining salaries at competitive levels. The third consideration is the budgeted salary increases of other employers in the same industry.

Significantly, over 95 percent of the respondents plan their salary program to pay salaries for managers and professionals that are at least average (or above) relative to competitors. They tend to use the same compensation strategy for all employees.

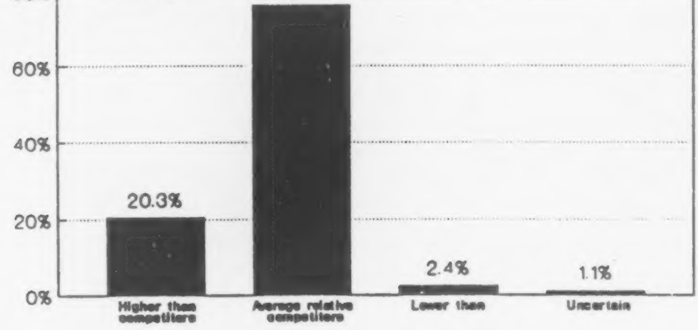
The typical participating organization takes part in ten surveys, and sponsors or conducts one survey each year. Some larger organizations participate in over 100 surveys a year.

Surprisingly, given the size of the federal work force, government salaries have either no impact (65 percent) or are not relevant to the work force (22 percent) in administering the respondent's salary program.

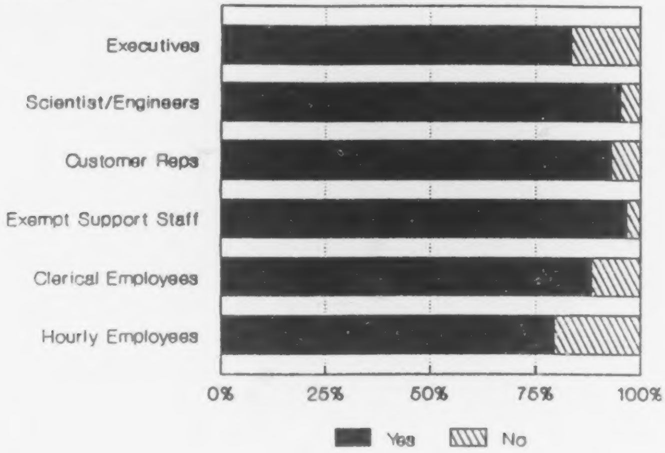
48. MOST IMPORTANT CONSIDERATIONS IN DEVELOPING THE SALARY INCREASE BUDGET:

	Mean Ranking
Budget plans of other employers in same geographic area	2.49
Budget plans of other employers in same industry(s)	2.27
Comparison of current salaries relative to competitive levels	1.79
Company's financial performance	1.61

49. COMPENSATION STRATEGY FOR MIDDLE MANAGEMENT AND PROFESSIONALS IS GENERALLY TO PAY SALARIES:



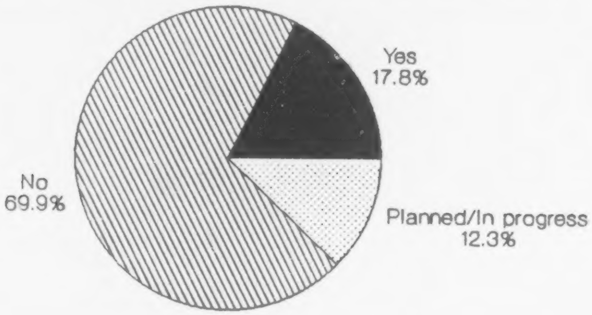
50. USE OF SAME COMPENSATION STRATEGY FOR PLANNING SALARY PROGRAM FOR FOLLOWING GROUPS:



51. DO YOU ANALYZE PAYROLL EXPENDITURES RELATIVE TO PREVAILING LEVELS IN YOUR INDUSTRY?

34.4%	Yes, routinely on a schedules basis
9.7	Yes, periodically at management's request
14.7	Yes, on an informal, "roughcut" basis
16.0	No, but we would if better data were available
25.3	No, this has not been an issue in at least the past 3 years

52. ANALYZE ORGANIZATION'S PRODUCTIVITY RELATIVE TO PAYROLL EXPENDITURE:



53. SALARY SURVEYS COMPANY SPONSORS AND/OR CONDUCTS EACH YEAR:

Median	1
0	30.5%
1 - 5	52.8
6 - 10	9.0
11 - 25	5.7
Over 25	2.0

54. PARTICIPATES IN OTHER ORGANIZATION'S SURVEYS:

Median	10
0	.3%
1 - 5	25.4
6 - 10	30.5
11 - 25	30.1
Over 25	13.7

55. **IMPACT OF FEDERAL WAGE AND SALARY LEVELS ON PAY IN YOUR COMPANY:**

64.6%	No specific impact
5.0	Government salaries are typically above ours
8.4	Our salaries tend to be higher than government salaries
22.0	Government salaries are not relevant to our work force

SECTION VIII

Program Administration

For respondents with multiple business units (divisions, subsidiaries or profit centers), almost 70 percent maintain a single job evaluation system, with centralized administration. Another 20 percent maintain a single system but decentralize its administration.

In over 80 percent of the organizations a job evaluation committee, personnel manager or job analyst is responsible for evaluation positions. Only 8 percent of the respondents delegate this responsibility to supervisors.

The job evaluation committees are typically comprised of personnel staff representatives and/or line and staff managers. In less than 5 percent of the organizations are union representatives or professional association representatives included on the committee.

The majority of respondents provide only an informal procedure for appealing job evaluation decisions.

Final approval for salary grade changes is typically retained by the personnel manager. However, the final approval authority for starting salary offers and merit increases is often delegrated to the immediate supervisor or to a business unit head. These actions are commonly limited or controlled by policies or budgets.

The supervisor is the primary media or method used to communicate information to employees regarding the salary program. Although other methods, such as employee handbooks or employee meetings, are prevalent for communicating salary program objectives and policies, the supervisor is often the only source of information for individual salary ranges and media pay actions.

56. **BEST DESCRIBES POLICY IF COMPANY HAS MULTIPLE BUSINESS UNITS:**

Maintain a single job evaluation system, with centralized administration	68.1%
Maintain a single job evaluation system, with decentralized administration	21.5
Business units are responsible for selecting and administering job evaluation system	10.4

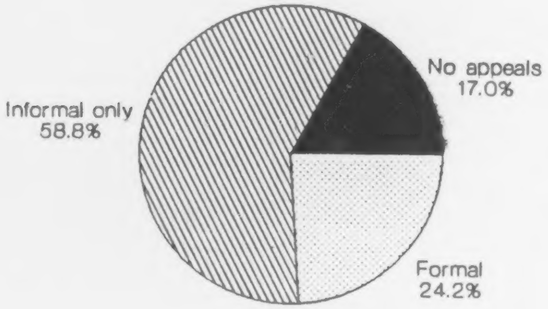
57. **PERSON RESPONSIBLE FOR EVALUATING POSITIONS IN MIDDLE MANAGEMENT:**

38.6%	Job evaluation committee	8.1%	Supervisor
27.5	Personnel manager	2.6	Outside consultant
32.5	Job analyst	15.3	Other

58. **JOB EVALUATION COMMITTEE IS COMPRISED OF:**

63.9%	Personnel staff representatives	2.4%	Professional association representatives
1.2	Union representatives	43.8	Line managers
30.1	Other	9.6	Employees

59. **PROCEDURE FOR APPEALING JOB EVALUATION DECISIONS:**



60. **PERSON WITH FINAL APPROVAL AUTHORITY FOR SALARY ACTIONS IN MIDDLE MANAGEMENT:**

	Immediate Supervisor	Business Unit Head	Personnel Manager	Personnel Analyst
Salary Grade change	28.2%	57.7%	62.7%	21.1%
Merit Increase	48.3	70.8	45.5	13.2
Starting salary offer	45.6	53.9	63.8	14.8

61. **MEDIA OR METHODS USED TO COMMUNICATE INFORMATION TO EXEMPT EMPLOYEES:**

	Not Communicated	Directed by Supervisor	Employee Handbook	Newsletter/ Memos	Group Meetings
Salary Program Objectives	17.0%	46.7%	37.8%	22.2%	34.5%
Methods for Job Evaluation	28.3	36.8	24.3	14.4	28.8
Policy Related to Competitive Practice	28.6	31.7	28.6	15.5	27.3
Individual Salary Ranges	11.9	72.0	8.6	9.7	7.8
Performance Appraisal and Merit Pay	3.4	85.0	24.9	15.4	19.3

BUDGET REQUEST

Mr. DUGGAN. For official year 1989, we are requesting a customarily modest budget, $205,000. This is $1,000 less than was originally requested for fiscal year 1988.

As the current budget shows, we are operating with $200,000 in fiscal year 1988. This sum covers all operating expenses, salaries, travel allowances for staff and committee members when they are on committee business, as well as rent, miscellaneous costs, and so on. These funds cover the absolute necessities.

A PERSONAL COMMENT

If I might add a personal note, Mr. Chairman, the people of St. Louis, where I come from, would like to congratulate the people of Arizona on their acquisition of the St. Louis Cardinals. [Laughter.]

Senator DECONCINI. We are awfully proud of that. We are sorry to cause you any heartburn, but I am sure you will get a new team.

Mr. DUGGAN. I am going to miss my good friend Bill Bidwell.

PREPARED STATEMENT

Sir, I am ready for any questions.

[The statement follows:]

STATEMENT OF MARTIN L. DUGGAN

I am Martin L. Duggan, Chairman of the Advisory Committee on Federal Pay. This is my fourth appearance before the Committee and I thank you for allowing me the opportunity to present the Advisory Committee's budget request. I would like to present a summary statement about the Committee's activities and concerns, as well as its budget requirements for Fiscal Year 1989.

As an introduction, permit me to provide a brief background of the Advisory Committee on Federal Pay. This Committee was established by the Federal Pay Comparability Act of 1970 (Public Law 91-656) as an independent body and adviser to the President on pay matters. The Committee's recommendations apply to pay affecting approximately 1.4 million Federal employees covered by the General Schedule and those linked to the General Schedule who are employed by the Department of Medicine and Surgery of the Veterans Administration and the Foreign Service. In addition, pay adjustments for the approximately 450,000 blue-collar workers have been capped at the same level as white-collar increases since 1978.

The Committee is composed of private citizens who are appointed by the President to serve 6-year staggered terms. President Reagan has named a new member to our Committee. Mr. Warren Keating Hendriks, Jr., who is with Korn Ferry International, a management and personnel consulting firm, is joining this three-person panel. Mr. Hendriks replaces Frank Zarb, a General Partner of Lazard Freres, who served for 6 years. Day-to-day activities of the Committee are carried out by two General Schedule staff employees.

The Advisory Committee submitted its annual report to the President on August 19, 1987. The report recommended an 8-percent pay adjustment, to become effective in October 1987. As pointed out in its report, the Committee's recommendation differs from the findings of the Pay Agent (composed of the Directors of the Office of Management and Budget and the Office of Personnel Management and the Secretary of Labor). In their own separate report to the President, they noted that, on average, a 23.9-percent pay gap existed. Actual adjustments that were required to meet comparability ranged from a low of 21.57 percent for GS-4 to a high of 28.86 percent for GS-15. I have with me a copy of our 1987 report and, with your permission, request that it be made part of my statement. Permit me to mention only the highlights.

The Advisory Committee report cites the growing evidence that the system is experiencing problems and that its fraying can be seen at both the top executive level and among the support clerical staff. Because of recruitment and retention problems of qualified clerical personnel, the Federal Government is relying more and more on special rates to provide flexibility in its pay system. Agencies employing approximately 42,000 clerical workers in Washington, D.C. were granted special rates for these occupations. The same problem exists in other parts of the country as well, including New York, Los Angeles, San Francisco, Seattle, and Boston, where special rates are also in effect. A growing number of requests from other areas and for additional occupations have been submitted, and the requests are growing rapidly.

Attitudinal surveys taken of senior executives indicate a great deal of discontent over a number of issues, including the merit and bonus systems. According to reports, the attrition rate among SES members had risen from 9 percent in Fiscal Year 1985 to 11 percent in Fiscal Year 1986. (See GAO report, "Recruitment and Retention of Senior Executives at the National Science Foundation," GAO/GGD 87-87FS, June 1987, page 3.) The Commission on Executive, Legislative, and Judicial Salaries cited a pay erosion of 40 percent since 1969 and, while modest pay increases were granted to SES members in February 1987, the January 1988 2-percent increase was withheld from those earning $72,500 or more.

The President's Commission on Compensation of Career Federal Executives released its report, dated February 26, 1988. The report highlights the government's need to be competitive for the best talent available and points out that compensation plays a significant role in recruiting and retaining high quality SES executives. Their recommendations include legislative proposals to increase basic salary levels from .8 percent for Level 1 to 14.9 percent for Level 6 in order to maintain a 6-percent differential between each level. Thus, the new salaries would range from $66,544 to $89,051, compared to the current $65,994 to $77,500. The report also endorses an expanded bonus system, increasing from the current 3 percent to 10 percent of aggregate career SES payroll and recommends recruitment and retention bonuses up to 40 percent out of this pool.

Let me say just a few words about the Professional, Administrative, Technical and Clerical Survey, a source of controversy for several years. The 1987

PATC survey represents another phase of the originally planned 3-year expansion, which takes into account some of the criticism that the survey scope should be broader. Last year's survey covered establishments primarily providing personnel, business, educational, health, legal, recreational, and technical services, a portion of the economy not previously surveyed in depth, and the establishment size was reduced to those employing at least 20 workers. The previous year's survey was updated using the Employment Cost Index. In addition to the survey's scope changes, four new jobs were added, registered nurse, nursing assistant, licensed practical nurse, and civil engineering technicians. All changes and additions reduced the overall comparability increase by 0.94 percentage points. Based on our understanding, the PATC survey for 1988 will survey the nonservice sector establishments with 50 or more employees, and the service sector rates will be adjusted by the ECI. In 1989, the service establishments will again be visited. In 1990, a new survey of pay and benefits now being developed will be in place and operating. The Advisory Committee on Federal Pay was asked to comment on the proposed changes and recommended that any changes made be consistent with the needs for determining comparability, as established by law.

Turning now to other activities, it should be noted that during the past year the Advisory Committee was invited to comment on "The Federal Pay Management Act of 1987" (HR 3132) before the House Subcommittee on Compensation and Employee Benefits. It was also asked to appear before the Commission on Federal Career Executives. In addition, the Advisory Committee is also working closely with the National Commission on Public Service, better known as the Volcker Commission, which is also addressing compensation issues as well as the overriding objective of promoting a friendly public perception of the Federal work force.

In September, the Advisory Committee on Federal Pay released a special study, entitled, "Salary Management Practices in the Private Sector," a report prepared in cooperation with the American Compensation Association and The Wyatt Company. The ACA respondents to the questionnaire were asked a wide range of questions on pay practices, such as merit pay, job analysis, job evaluation, locality pay, and administration of the program. One of the questions asked about the "impact of Federal wage and salary levels on pay in your company." The responses show that 87 percent find it has no specific impact or that government salaries are not relevant to their work force. Eight percent of the companies responded that their salaries tended to be higher than government salaries, and only 5 percent indicated that government salaries were higher. Since the Federal Government is the Nation's largest employer, this finding was surprising.

The Advisory Committee has had hundreds of requests for the study from all agencies throughout the country, which indicates a great deal of interest in learning about other approaches to the pay setting process. With your permission, I would like to make the report part of the official record.

Let me now turn to the Advisory Committee's 1989 budget request. Our budget requirements are modest. For Fiscal Year 1989, we are requesting $205,000, one thousand dollars less than was originally requested for Fiscal Year 1988. As the current budget shows, we are operating with $200,000 in Fiscal Year 1988. This sum covers all operating expenses, salaries and travel allowances of staff and Committee members when they are on Committee business, as well as rent and miscellaneous costs of our headquarters office. The Committee has always exercised financial restraint and intends to continue this policy in the future. These funds cover the absolute necessities and cover only a minimum of discretionary spending.

In the coming year, as in the recent past, we expect that pay and benefit issues for Federal workers will be a topic of intense debate and our Committee will devote its efforts to analyzing the current issues and preparing its recommendations.

This concludes my remarks and I will be happy to answer questions.

JUSTIFICATION

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306, $205,000.

General Statement

The appropriations will pay the expenses of the three members of the Committee for time they spend on Committee business, the salaries of the Committee's three full-time employees, rent and other expenses of maintaining an office. This budget also covers the cost of special studies and other services required to evaluate proposals affecting annual changes in the pay of 1.4 million Federal white-collar employees. The direct compensation bill for white-collar employees totals about $45 billion a year, as derived from the Pay Agent's 1987 report.

JUSTIFICATION OF APPROPRIATION REQUEST, 1989

The Advisory Committee on Federal Pay was appointed by the President in January 1972 as an independent agency established under the Federal Pay Comparability Act of 1970 (Public Law 91-656). The Advisory Committee consists of three private citizen members who are not Federal Government employees. The Advisory Committee is responsible for preparing an independent annual report to the President with recommendations for annual pay adjustments affecting the approximately 1.4 million Federal white-collar employees covered by the General Schedule and those linked to the General Schedule who are employed by the Department of Medicine and Surgery of the Veterans Administration and the Foreign Service. Annual direct compensation costs for these Federal white-collar employees now amount to about $45 billion.

In preparing its report, the Committee must consider the recommendations of the President's Pay Agent (the Directors of the Office of Management and Budget and the Office of Personnel Management and the Secretary of Labor) and the views of organizations representing Federal employees.

The Advisory Committee was granted two additional responsibilities as a result of recommendations by the President's Panel on Federal Compensation in December 1975 and an Executive Order signed on July 20, 1977. The first is a labor relations-mediation role--intended to improve the day-to-day and long-term relations between the President's Agent and the Federal Employees Pay Council, composed of unions representing Federal workers. The second responsibility involves making recommendations to the President for improving Federal compensation policies and practices, as recommended by the 1975 report.

Members of the Advisory Committee are paid a daily rate and receive per diem and travel expenses for the time spent on Committee business. The funds are also requested to pay for the staff and other administrative expenses involved in the Committee's activities, as well as for maintaining a small headquarters office.

Program and Financing (in thousands of dollars)

Identification code 95-1800-0-1-805	1987 actual	1988 est.	1989 est.
Program by activities:			
10.00 Total obligations	195	200	205
Financing:			
25.00 Unobligated balance lapsing	8		
40.00 Budget authority (appropriation)	203	200	205
Relation of obligations to outlays:			
71.00 Obligations incurred, net	195	200	205
72.40 Obligated balance, start of year	6	29	40
74.40 Obligated balance, end of year	−29	−40	−41
77.00 Adjustments in expired accounts	2		
90.00 Outlays	175	189	204

Object Classification (in thousands of dollars)

Identification code 95-1800-0-1-805	1987 actual	1988 est.	1989 est.
Personnel compensation:			
11.1 Full-time permanent	101	109	120
11.3 Other than full-time permanent	6	8	8
11.9 Total personnel compensation	107	117	128
12.1 Civilian personnel benefits	10	14	17
21.0 Travel and transportation of persons	5	5	5
23.1 Rental payments to GSA	28	28	29
23.3 Communications, utilities, and miscellaneous charges	2	2	2
24.0 Printing and reproduction	2	2	2
25.0 Other services	40	31	21
26.0 Supplies and materials	1	1	1
99.9 Total obligations	195	200	205

Personnel Summary

Total number of full-time permanent positions	3	3	3
Total compensable workyears: Full-time equivalent employment	2	3	3

MILITARY VERSUS CIVILIAN PAY

Senator DECONCINI. The President's 1989 budget, following the guidelines of the December Budget Summit Agreement, recommended only a 2-percent pay raise for Federal employees for January 1989. At the same time, it recommended 4.3 increase for military employees.

Given that a recent GAO study pegged military compensation at 27 percent above that of civilian employees who perform similar jobs, and in the current budget climate, would not a 2-percent across the board pay raise be both equitable and wise?

Are there retention problems within the service of which I am not aware which might justify a difference in the disparity between these raises?

Also, since other presidential pay commissions recommend higher increases for senior executives, where will all the money come from?

Mr. DUGGAN. Sir, I am not prepared to answer your question, but I am listening to them respectfully. In consultation with my colleagues, I will certainly be glad to provide answers for you.

ADVISORY COMMITTEE IMPACT

Senator DECONCINI. Mr. Duggan, this is not directed toward you by any means, but I just wonder how much influence your Advisory Committee has in the government. Can you indicate where you have felt that your committee has convinced the administration on an issue of pay one way or the other?

Mr. DUGGAN. It is certainly a fair question, sir, and I would answer respectfully to that. We advise the President. The President's own recommendations have, during my period of experience as chairman, been adopted by the Congress with little or no change.

I feel that the committee, which after all was created by Congress, serves a useful purpose in offering representatives of the 1.4 million white collar Federal employees a sounding board for their views.

I believe that the committee is held in respect by the people whose interests we attempt to serve, and I mean not only Federal employees but their ultimate employers, the taxpayers. If this is an overly generous observation on my part of our committee's process——

Senator DECONCINI. Let me ask a question, and please don't take this personally.

Recently, the Federal law enforcement, some of them, I can't remember which ones, but a number of them got a substantial pay increase in the administration, which I supported. Were you consulted in that, or did you participate in that at all or where you aware of it?

Mr. DUGGAN. You are speaking of special rate change for whom?

Senator DECONCINI. The uniformed division of the Secret Service, and a few others, the Park Police, and a few others got a pay increase, a substantial one.

Mr. DUGGAN. No; we were not approached directly on that.

Senator DECONCINI. Very good, thank you.

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions to you for your response in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

Questions: Senator DeConcini. The President's 1989 budget, following the guidelines of the December Budget Summit Agreement, recommended only a 2 percent pay raise for federal employees for January 1989. At the same time, it recommended 4.3 increase for military employees.

Given that a recent GAO study pegged military compensation at 27 percent above that of civilian employees who perform similar jobs, and in the current budget climate, would not a 2 percent across the board pay raise be both equitable and wise?

Are there retention problems within the service of which I am not aware which might justify a difference in the disparity between these raises?

Answer: The Advisory Committee shares the Senator's concern about the inequity of treatment between the two groups and believes pay increases should be relinked. Prior to 1980, both were granted the same increases; however, since that time, the military increases have outstripped civilian pay. Problems of recruiting and retaining a higher caliber of personnel were cited as reasons for the higher increases. Based on reports, it appears that these problems have now been eliminated.

Question: Senator DeConcini. Since other Presidential pay commissions recommend higher increases for senior executives, where will all the money come from?

Answer: It is clear that there are difficult choices that need to be made. Some of the questions that must be answered are: Should the government continue what it is doing, at what level, and with what quality personnel? Just as a car cannot operate on water, the Federal Government cannot function without proper resources. If it is worth doing, then it should be done well. While people are willing to sacrifice, a decade of bad times, with no relief in sight, is too long and too much to ask.

Special Pay Rates

Senator DeConcini: On page 2 of your statement, you cite the Advisory Committee report that shows growing evidence of the decay of the pay system at both the top levels and the lower levels. You go on to say that the erosion of the pay system at the lower levels and other levels has led to an increase in request for "special pay" adjustments to help retain and recruit qualified people.

We are seeing the same thing in the law enforcement community, where Federal law enforcement officers are making substantially less than local police or county police officers.

Question: In your view, what is the answer to the growing trend of relying on special, "stop-gap" pay measures to stem the tide of turnovers in the Federal workforce?

Answer: The Advisory Committee has stated in its annual report that "Attempts to treat the overall pay problem with a piecemeal approach will not solve the overall need to correct and develop a sound compensation policy." The proliferation of special rates is clearly a piecemeal approach which in itself could lead to inequities.

There are several reasons for the growing numbers of people who are leaving or not selecting Federal employment. Certainly the widening pay gap has made Federal employment less attractive. This, combined with the changed retirement system, which promotes mobility and the existence of other benefits about equivalent to the private sector, are not employment incentives. Perhaps an even more compelling reason is the unfavorable public sentiment against public service.

Question: Have you taken a look at the Federal law enforcement community to see how pay matters are affecting their ranks? If so, what are your findings?

The Advisory Committee has not reviewed pay rates for specific occupations or agencies. We have reviewed the Professional, Administrative, Technical, and Clerical annual survey, which looks at 26 occupations in 134 work levels. These occupations are selected by the Office of Personnel Management and the Bureau of Labor Statistics does the actual survey work. Even though law enforcement occupations are not surveyed, we know that, for example, police who are in Grade 5, on average, and criminal investigators in Grade 13, on average, are below the private sector by 22 and 25 percent, repectively, based on other occupations in those grades.

We have heard from a number of occupations represented by the groups who have appeared before us, and I would like to attach this listing as part of the record. Law enforcement officers have not been among them.

Federal Law Enforcement Pay

Senator DeConcini: Mr. Duggan, one area of the pay problem that is of particular concern to me is in law enforcement. Last year, we paved the way for OPM to grant special pay adjustments for certain law enforcement agencies by allowing OPM, for the first time, to consider pay scales of State and local police departments when assessing the adequacy of Federal pay for law enforcement officers. A pay raise was approved on February 28th for a number of agencies including the U.S. Secret Service Uniform Division and the Bureau of Engraving and Printing Police in Treasury.

Question: What has been your role, if any, in helping the President or his Administration chiefs in the law enforcement agencies to adjust pay for Federal law enforcement officers?

Answer: The Advisory Committee has not officially been asked to provide assistance for law enforcement personnel.

Question: What are your recommendations, if any, to help fix the pay comparability problem among law enforcement agencies both inside and outside of the Federal government?

Answer: We are sympathetic to the problems of recruiting and retaining an efficient law enforcement staff. We are also mindful of the urgencies and needs in other occupational groups, including executives and support staff, who are mentioned in our 1987 report. The pay gap has become so large that all occupations merit consideration.

We had hoped our recommendations over the past 4 years would have been heeded so that a major pay problem would not now exist. If agencies and occupational groups become aware that only through special pleadings will the pay problem be relieved, a flood gate of requests will be sent to OPM for special rates and to Congress for legislative exceptions. While this may cost less in dollars in the short run, the cohension of the General Schedule will be lost in the long run. In addition, inequities between groups will become more apparent. The victors will tend to be those with the strongest voices.

Budget

Senator DeConcini: Mr. Duggan, your budget is a "pebble on the beach" when compared to some of the budgets that we have to examine in this Subcommittee. $205,000 does not buy you a lot of clout, at least in this Administration.

Question: What would you be able to do with one MORE staff slot next year that you can't do now, and what would you NOT BE ABLE TO DO if we gave you one LESS SLOT NEXT YEAR?

Answer: We have requested three full-time staff in Fiscal Year 1989, yet we have continued to operate with two full-time staff persons. As the justification for the appropriations shows, our expenses for Fiscal Year 1987 were almost equal to the amount appropriated for just the two persons. The addition of one person to the staff would not add materially to our organization's effectiveness and there would not be sufficient funds available to pay the person. A cut of one full-time equivalent would force us to reduce activities significantly.

Question: Tell us what your original request was to OMB and where, if at all, they cut you back.

Answer: The Advisory Committee's FY 1989 request to OMB was $316,000. This additional funding would have been used to undertake research on Federal compensation and employment.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

Question: Senator Domenici: As you are aware, the fiscal year 1988 Treasury, Postal Service, and General Government Appropriations bill reported by the House recommended no funding for the Advisory Committee. The Senate did not support that House recommendation and appropriated the funds, but I am curious to know from you what the impact would have been in your view if the House position had prevailed?

Answer: The Advisory Committee believes that the Federal work force would have been deprived of an impartial voice in the pay setting process. We are aware of a number of professional associations and unions that were dismayed at the prospect of not having this neutral body available to hear their suggestions and offer pay recommendations and communicated this sentiment to Congress.

The Committee has acted as one of the few channels of communication between the work force and the Administration. During its annual meetings, the Committee relates the highlights of its meetings with associations and unions to the Pay Agent and provides them with its major concerns. These are also made part of the official report to the President.

Question: Senator Domenici: How does the Committee determine which special studies and issues it will focus its efforts on? What special studies are now ongoing?

Answer: The Advisory Committee's report, "Salary Management Practices in the Private Sector," released last fall, was undertaken in response to the direction the Federal Government appears to be moving. The Civil Service Reform Act of 1978 initiated a number of private sector pay practices, such as pay for performance for executives and managers. The Federal Government is attempting to expand this approach and other new approaches to the entire work force. The Advisory Committee believed that before the Federal Government embarks on wholesale changes it would be beneficial for it to know what prevailing pay practices are in the private sector and evaluate their applicability to its own work force. We were pleased with the survey response and the large number of requests we received for copies of the report.

At the moment, we are not conducting any other study.

Question: Senator Domenici: You mentioned that in addition to its annual report, the Committee serves in a labor relations-mediation role and makes recommendations to the President for improving Federal compensation policies and practices. How has the Committee exercised these responsibilities?

Answer: The Advisory Committee was granted the mediation role in a 1977 Executive Order. Shortly thereafter, however, the President's Pay Agent and the Federal Employees Pay Council terminated their meetings and the members of the Council resigned. The Pay Council's resignation from the dialogue existed until meetings were resumed in 1982 and 1983. During this time, the Advisory Committee resumed its mediation function; however, because of unsolvable differences, the parties reached an impasse and all discussions were terminated. Since that time, the Advisory Committee has made itself available to both parties in an effort to promote a resumption of discussions. We believe that the Committee has achieved a cooperative relationship with the Pay Agent and a cordial one with the Pay Council.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess until Monday, March 21, when we will receive testimony from the Treasury Department's Bureau of Public Debt, Financial Management, the U.S. Mint, and the Internal Revenue Service at 9:30 a.m.

[Whereupon, 12:05 p.m., Friday, March 18, the subcommittee was recessed, to reconvene at 9:30 a.m., March 21.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1989

MONDAY, MARCH 21, 1988

U.S. Senate,
Subcommittee of the Committee on Appropriations,
Washington, DC.

The subcommittee met at 10:10 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Milkulski, and Domenici.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

STATEMENT OF LAWRENCE B. GIBBS, COMMISSIONER

ACCOMPANIED BY:

- **MICHAEL J. MURPHY, SENIOR DEPUTY COMMISSIONER**
- **CHARLES H. BRENNAN, DEPUTY COMMISSIONER, OPERATIONS**
- **JOHN L. WEDICK, JR., DEPUTY COMMISSIONER, PLANNING AND RESOURCES**
- **RICHARD MIHELCIC, ASSOCIATE CHIEF COUNSEL, FINANCE AND MANAGEMENT**
- **D. ED PECORELLA, ASSISTANT COMMISSIONER, TAXPAYER SERVICE AND RETURNS PROCESSING**
- **HENRY H. PHILCOX, ASSISTANT COMMISSIONER, INFORMATION SYSTEMS DEVELOPMENT**
- **STEPHEN E. TAYLOR, DIRECTOR, FINANCE DIVISION**
- **JILL E. KENT, ACTING ASSISTANT SECRETARY, MANAGEMENT**
- **ROGER M. COOPER, DEPUTY ASSISTANT SECRETARY FOR INFORMATION SYSTEMS**

OPENING REMARKS

Senator DeConcini. The subcommittee will come to order.

This morning, the Treasury, Postal Service, and General Government Subcommittee continues its fiscal year 1989 appropriation hearings by receiving testimony from five major Treasury bureaus, the Internal Revenue Service, the Departmental Offices, the Bureau of Public Debt, the Financial Management Service, and the U.S. Mint.

It is my hope that we can finish this morning. Unfortunately, due to the delay because of no reporter, we are going to use a tape recorder and pass the microphone back and forth. I am going to ask each witness to summarize their prepared statements and keep those summaries under 5 minutes, if possible. It will allow us to get into more questions and issues that we would like to get to today.

Our first witness this morning is the Commissioner of Internal Revenue, undoubtedly the most popular agency in the U.S. Government at this time of year, Mr. Lawrence Gibbs.

Mr. Gibbs, we welcome you and thank you for the job that you are doing. Your people are trying hard, we know that. I know that you have some problems and that is what we are here to listen to. Before I call on you, Commissioner Gibbs, I will yield to my ranking member, the Senator from New Mexico, Mr. Domenici.

Senator DOMENICI. Thank you very much, Mr. Chairman. I thought I was going to apologize for being late, but I assume that this great snow storm got us all.

I would just like to welcome those divisions of the U.S. Treasury Department who are present today to explain their budget needs for the year. Obviously, we will be hearing from the IRS, the Bureau of Public Debt, the Financial Management Service, and the U.S. Mint.

When we get to the U.S. Mint, with your permission, Mr. Chairman, since you are a cosponsor of Senate bill 1742 for a new gold-colored dollar coin, I would like to inquire again about that measure and that issue.

Obviously, Mr. Chairman, you have stated it nicely in talking about how popular the IRS is at this time of the year, but I think we are interested in knowing how effective the IRS is in responding to taxpayers this year. There are a lot of complaints that we read about. It seems that, in executing its responsibility to carry out the law, some taxpayers are contending I am sure to you as well as to me, Mr. Chairman, that there is intrusiveness and some probing of taxpayers that has led to some significant complaints.

PREPARED STATEMENT

I am hopeful that we can talk about that a bit, and what motivates our IRS agents these days. We have given you a lot of enhanced enforcement opportunities and increased the money that you have in your Department. We also know that that should help in collecting from those who don't pay. But from my standpoint, I am very hopeful that you can convince us that that is not leading to coercive-type activities or any arbitrary type of quotas that push IRS agents. We have to assure our citizens that this is being done fairly and without any untoward pressures coming from the Department. I am sure that you will be pleased to discuss that with us, Commissioner.

Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF SENATOR PETE V DOMENICI

Good morning. Mr. Chairman, I would simply like to welcome those divisions of the U.S. Treasury Department who are here today to present their budget needs for the coming fiscal year. We will be hearing from the Internal Revenue Service, the Bureau of the Public Debt, the Financial Management Service, and the U.S. Mint.

Mr. Chairman, I am pleased to have you, along with Senator D'Amato who serves on this subcommittee, as cosponsors of Senate 1742, the bill I have introduced to update our currency through the minting of a new gold-colored dollar coin. I know that the Treasury and the mint are now in the process of conducting an extensive study of that measure. I thank them for this and eagerly await their findings.

I understand that we will begin our session today with the Internal Revenue Service. It is good to have you with us, Commissioner Gibbs.

The Internal Revenue Service has had a tremendous burden placed on it this year. Taxpayers are wrestling for the first time with changes made by the Tax Reform Act of 1986. We will be interested to know how effectively the IRS is responding to taxpayers in this year when service is so essential.

It disturbs me to hear complaints or read about instances when it seems that in executing its responsibility to carry out the law, the IRS has been arbitrarily intrusive and probing with individual taxpayers. We hope these are isolated cases Commissioner and we will be interested in knowing what controls exist to avoid this and to promote fair and efficient tax collection efforts.

Congress has given the IRS substantial funding increases to enhance its enforcement efforts in the past 2 years to bring in additional revenues as part of the Federal deficit reduction effort. We will also want to know how this is going Commissioner and if the revenues contemplated are actually being realized.

I hope to explore these and other issues with you this morning, so I'll now let us get started.

Thank you.

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. I thank you, Senator Domenici. I will hand the microphone over to you, Mr. Commissioner, and then you can proceed with your summary.

Mr. GIBBS. Thank you, Mr. Chairman, and Senator Domenici.

I am delighted to return to the subcommittee for my second year. I would like to begin by introducing the folks who are here with me, and to make it easier, I will start down at my far right, which is your left, and identify the individuals who are here at the table this morning.

At the far end of the table is Ed Pecorella, who is our Assistant Commissioner for Taxpayer Service and Returns Processing. Next to Ed is Rich Mihelcic. Rich is our attorney, and is an associate chief counsel. Next to Rich is Charly Brennan, who is our Deputy Commissioner for Operations. Next to Charlie is our Senior Deputy Commissioner, Mike Murphy.

Starting to my left and your right, to my immediate left is Steve Taylor, the Director of our Finance Division. To Steve's left, John Wedick who is our Deputy Commissioner for Planning and Resources. To John's left is the Assistant Secretary-Designate for Management of the Treasury Department, Jill Kent. To Jill's left is Roger Cooper, who is the Deputy Assistant Secretary for Information Systems at the Treasury. Finally, to Roger's left is Hank Philcox who is our Assistant Commissioner for Information Systems Development.

What I would like to do, Mr. Chairman, with your permission, is to ask that our written statement be submitted for the record, and then make a short oral statement. I have some charts that I would like to show, and then we would be pleased to answer any questions that you may have.

IMPLEMENTING THE TAX REFORM ACT

We had a basic decision to make at about this time last year and even before at the Internal Revenue Service. The decision basically involved how we were going to see the 1986 Tax Reform Act and our role in implementing that act. As an agency, we could either see it as a chore, something that had to be done, or we could see it as an opportunity.

We chose very intentionally the latter course, to see the carrying out of the 1986 act, particularly in the current filing season, as an opportunity, that is to say, an opportunity that our agency had to take one of the most difficult acts, one of the most far-reaching acts that we have ever had in this country, and try to carry it out, try to implement it, in a way that would earn the respect and confidence of the American public, at least from the standpoint of the filing season and the educational process that was going to be necessary in order for people in the United States to understand the provisions of this new act.

That was a major decision on our part, and we recognized early on that what it was going to require was a tremendous education process, not only for taxpayers but also for people in our own organization. Beginning last year, we started with that educational process.

Last summer, I met personally with all of the executives in our organization at training sessions where we were training them with respect to the technical provisions and how we, as an agency, were going to carry out the new act.

We also developed training programs for all of the people across the Internal Revenue Service. Obviously, we were not able to give in-depth training to everyone. But in almost every area, we had training to do, and we wanted our people to understand that the Tax Reform Act was an opportunity for us to basically take a difficult piece of legislation and try to do well with it.

We have done a number of things over the last year. We have revised about 25 percent of our computer programs. We have had to test those computer programs, and then we have had to write manuals for our service centers so that our people using those computer programs could understand how the new law was going to impact them as they processed returns.

We began early in the year revising our forms and publications. At this time last year, you were critical, as you should have been, with respect to our initial attempt in the W–4, but we learned something from the W–4, and what we learned was that it was important for us to test our forms before we actually went to print with them. That is what we did.

We took the 1040, the 1040A, the 1040EZ, and after preparing initial drafts, we went out and tested them through focus groups, distributing them to practitioners and others. Then we got the feedback and tried to simplify as much as we could, to the point of trying to address some of the problems that people had with our early drafts of the forms.

We began earlier than we had ever begun in recruiting and training our folks on the telephone who were providing taxpayer assistance throughout the organization. We increased the number of people. We increased the number of lines into our taxpayer assistance operations. We trained the folks longer, and then we put them on the job sooner.

We also devised a testing technique called our integrated test call system. The purpose of this was to attempt to determine, working with GAO, what the accuracy level was of our employees. It is no secret, we have had a learning curve. The accuracy is not where we would like it to be. But as a result of this new system, we at least know where we are and we have the capability on an overnight and weekly basis to provide feedback to our taxpayer assistance sites, to try to help our people improve their accuracy.

The trend level has been up, not up as high as we would like to see it, but it has been up. We at least think that we have something for future years, and for later this year, that we can work to improve the accuracy of the assistance that we are providing.

We also have been working with the Advertising Council and with media all over the country. We have given our district directors media training. We have urged our district directors and our key executives to discuss with the media the problems that we saw with respect to this new act and what messages we needed to get out to taxpayers and practitioners.

We also asked the Advertising Council to adopt us as a project, which they did, to enter into an extensive advertising campaign to, basically, bring the message to the American public this year of making their taxes less taxing by getting into the forms, getting into the publications, educating themselves, getting their information together, and filing their returns sooner than they had ever done before.

We took the funding that this subcommittee so generously provided in December of last year, and we have, as you instructed us to do, reprogrammed about $51 million, in addition to the $7 million that you provided directly, into our taxpayer service and assistance this year to try to help taypayers. For that, Mr. Chairman, we sincerely appreciate your assistance.

This fall, we went out with an advertising campaign of our own in the form of a one-page brochure, which was sent out to 90 million taxpayers, asking them to order our Publication 920, explaining to individuals what the impact of this new act would be. We have distributed over 17 million copies of Publication 920, making it our all-time bestseller.

Senator DOMENICI. Why didn't you just send them that?

Mr. GIBBS. The reason, Senator Domenici, that we did not was because of the cost, quite honestly. It was a multipage publication, and when we looked at the cost of simply mailing the brochure, we found that the cost to mail it to everyone would have been substantial and we knew that there were a number of people who were using tax return preparers and others that would not necessarily be using it. This is why we did what we did. But we are pleased with the 17 million responses that we have received for the publication.

I could go on. You have asked me to hold the remarks to 5 minutes, and I will do so. I am pleased to tell you, however, that when we move from the planning to the actual implementation, from our standpoint, Mr. Chairman, we are having a very good filing season.

1988 FILING SEASON

We will not have last week's figures until this afternoon, so the figures that I am about to give you are 1 week old. But as of 1 week ago, we had received over 42 percent of the returns that we expect to receive this year. That is within 1 percent of the same number that we had received at this time last year. So the returns are coming in very, very well.

The average refund on the return is about $30 higher than it was last year. The average refund is up over $800. The number of refunds that we have issued this year is in excess of the number of refunds that we issued at this time last year. So we are able to process the returns and pay the refunds on a very timely basis.

Our inventories of problems at our service centers, which we call adjustments and unpostables, are down, down significantly from last year. This means that we can move the returns through the system much more rapidly.

We had projected an error rate for this year of about 15 percent higher because of the new act, errors that taxpayers or practitioners or we would make as we processed the return. Thus far, the number of taxpayer errors has increased almost 4 percent over last year and the number of IRS service center errors has decreased almost 4 percent over last year.

FISCAL YEAR 1989 BUDGET REQUEST

Let's discuss the 1989 budget request. For 1989, we will be asking for about $5.3 billion and about 113,000 average positions. This is an increase of about $241 million over 1988, and about 1,650 average positions over the 1988 level. With this funding, we expect to collect, net of refunds, about $910 billion during fiscal year 1989. We expect to process about 191 million returns, up again from 1988. We expect to issue about 80 million refunds, and we expect to assist about 64 million taxpayers.

With the budget that we are requesting, we expect to modernize our computerized information systems, to make them more effective, fair, responsive, and responsible to the taxpayers. We also will use the funding in our 1989 budget request to combat organized crime and drug abuse.

PROCESSING TAX RETURNS

One of the major features of our 1989 budget will be to continue to ensure the sound processing of tax returns and the timely payment of refunds. We, in addition, expect to add a service center correspondence feature, which will permit us, for the first time, to explain to taxpayers, on the bills and refunds that we are sending, what the breakdown of interest and penalties will be, something that the practitioners and taxpayers have requested of us for a number of years.

ADDITIONAL PROBLEM RESOLUTION STAFF

We also will be able in our service centers to provide additional problem resolution staff to assist taxpayers with some of the problems that they are having.

TAXPAYER ASSISTANCE

With the additional funding, we will continue the 85-percent level of service in our taxpayer assistance sites, and provide more prompt, courteous, correct, and complete answers in the 1989 filing season.

ENHANCING INFORMATION SYSTEMS

With respect to our 1989 budget, we also anticipate using a substantial portion to enhance our information systems through a number of different initiatives. We believe that the funding will permit us to provide a level of service which we feel we ought to be providing to the public.

We will be able to modernize some of our tax administration systems that presently date from the 1950's and, in turn, will again be able to provide better service and assistance to taxpayers than we are with the present equipment that we have.

TAX SYSTEM REDESIGN

We have been working with the Treasury, the Office of Management and Budget, and the Congress to develop a management plan to redesign our tax system, which we will be pleased to discuss with you this morning. As I indicated, Hank Philcox, our Assistant Commissioner for Information Systems Development, is here to discuss that with you.

This will permit us to replace our antiquated system of processing returns and answering questions about taxpayer accounts.

ELECTRONIC FILING

We also will use the additional funding to enhance our electronic filing which, by the way, this year is running at an extraordinary level. The demand has been up very, very significantly over last year. With electronic filing, you no longer have to file a paper return with the Internal Revenue Service. Taxpayers can actually, in 16 sites across the country, 10 complete States, file their returns electronically, which means that the return preparers' computers can talk directly to our computers.

The benefits are that we can pay the refunds in about 3 to 4 weeks time, and take the error rates, taxpayers', practitioners', and IRS', from about 20 percent down to 3 to 4 percent.

Senator MIKULSKI. Will the taxpayer have a hard copy?

Mr. GIBBS. The taxpayer will have a hard copy. Revenue procedures require that the preparer furnish the taxpayer with a hard copy of their return.

The point is that a number of problems that we have in terms of the expense and difficulty in providing real service is because we have to keep, store, and retrieve paper. This will permit us to, in effect, sidetrack that, eliminate all that paper. It will permit us, once we have the system in place, over a period of time, to provide much better assistance to taxpayers.

LAW ENFORCEMENT

I would also like to tell you that with our budget, we will be enhancing our criminal investigation capability. We will provide for an updated two-way radio system to permit a more secure communication capability. We are the only Federal law enforcement agency at the present time that does not have that capability.

In addition, we will be enhancing the amount of resources that we will be devoting to drug enforcement and money laundering. We will continue to participate in the 13 organized crime and drug enforcement task forces, and we will continue to participate in Operation Alliance down along the Southwest border to attempt to stem the flow of drugs into this country.

INTERNATIONAL PROGRAMS

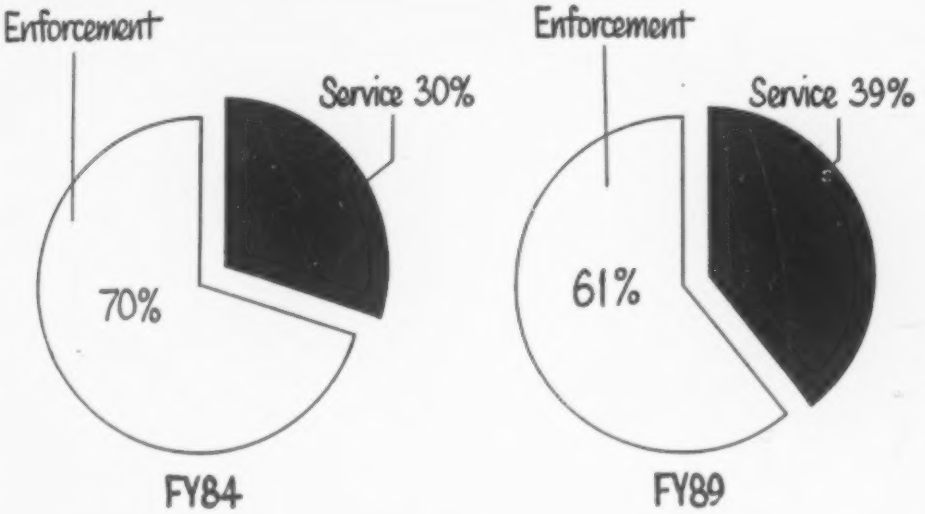
We also will be enhancing our international tax capability, both in assisting taxpayers who are living abroad and also in working government to government, to try to improve the flow of information back and forth to settle tax cases.

A BALANCED APPROACH

In short, what I have really tried to convey this morning, as I did last year, is that with the funding that we are asking for in 1989, we will try to balance our role of providing service, on the one hand, to taxpayers who are trying to comply with their tax obligations, and, at the same time, enhancing our compliance capabilities for those who are simply not trying to comply.

I would like to summarize, really, by turning to the charts that we have here, to make the points that I have made in my testimony.

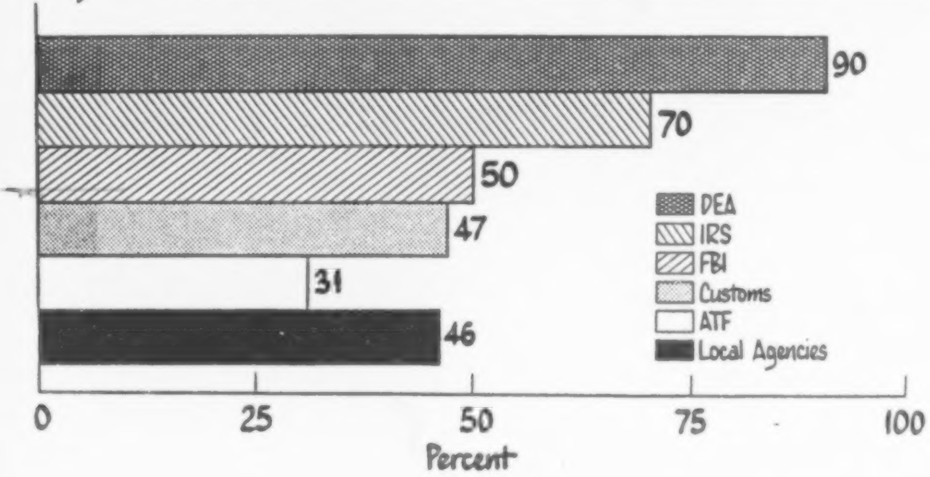
Service and Enforcement Resources



This is a new chart. This is one that you have not seen before. What I am really trying to show with it is the difference in the balance of our budget between enforcement on the one hand, and service on the other. From 1984 to 1989, we have moved to try to provide the balance of taking the budget from 70/30 percent ratio of enforcement to service in 1984, the year, by the way, right before the very difficult 1985 filing season that we had, and move it, in fiscal 1989, if we receive the budget that we are asking, to approximately a 60/40 percent ratio of enforcement to service.

This seems to me to be an appropriate type of balance to have in our tax system. This is the direction, quite honestly, Mr. Chairman, that it was appropriate, particularly after 1984, to head in. I thank you for your support and ask for your continued support.

Percent of Agency Participation in Drug Investigations Begun During CY 1986



PARTICIPATION IN DRUG ENFORCEMENT INVESTIGATIONS

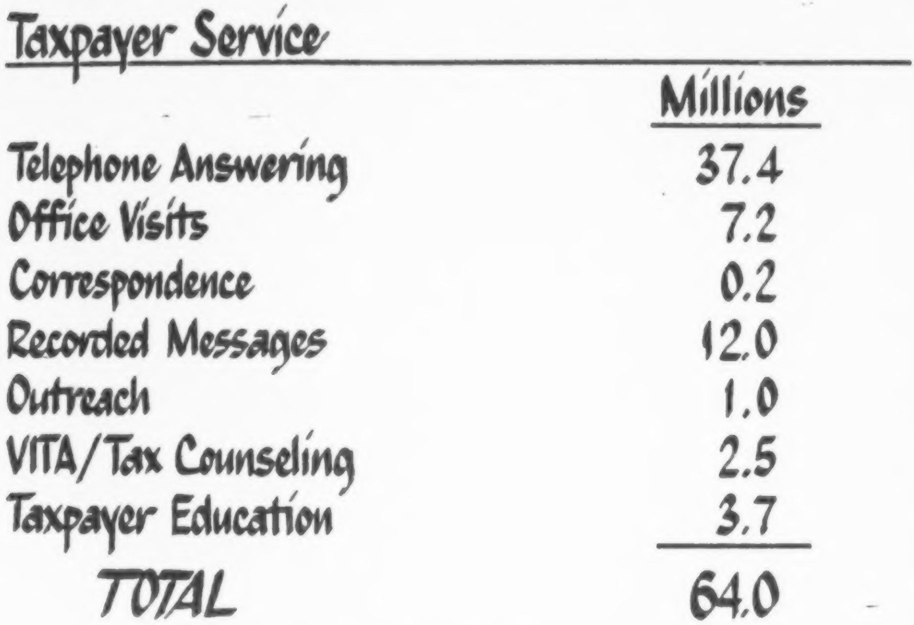
Turning to the second chart, and moving to the enforcement side of the organization, again, we are trying to show in a graphic way that in 7 out of 10 of the drug enforcement cases, the Internal Revenue Service is a participant. We are second only to DEA in terms of the number of cases that we handle. We expect to devote 1,489 average positions and $70 million to drug enforcement in the 1989 budget, that is a staffing growth of 42 percent since 1982.

Criminal Investigation Drug Enforcement

	FY 1980	FY 1987	% FY87 Over FY80
Indictments	39	898	2302%
Convictions	42	680	1619%
Percent of Convicted Sentenced to Prison	67%	77%	115%
Total Fines (Thousand of Dollars)	$489	$11,787	2410%

There is another way I would like to show this, and that is with this third chart, again, showing what we have done since 1980 in terms of indictments, convictions, and the percent of those convicted who are sent to prison, and total fines with respect to our criminal investigation and enforcement area, and the drug enforcement capability.

Again, I think the figures simply speak for themselves, a 2,300-percent increase in indictments, a 1,600-percent increase in convictions, over 100-percent increase in prison sentences, and a 2,400-percent increase in fines in 1987 over 1980. Again, simply an indication of the results that we are able to obtain having devoted the resources to the drug enforcement area.



Taxpayer Service

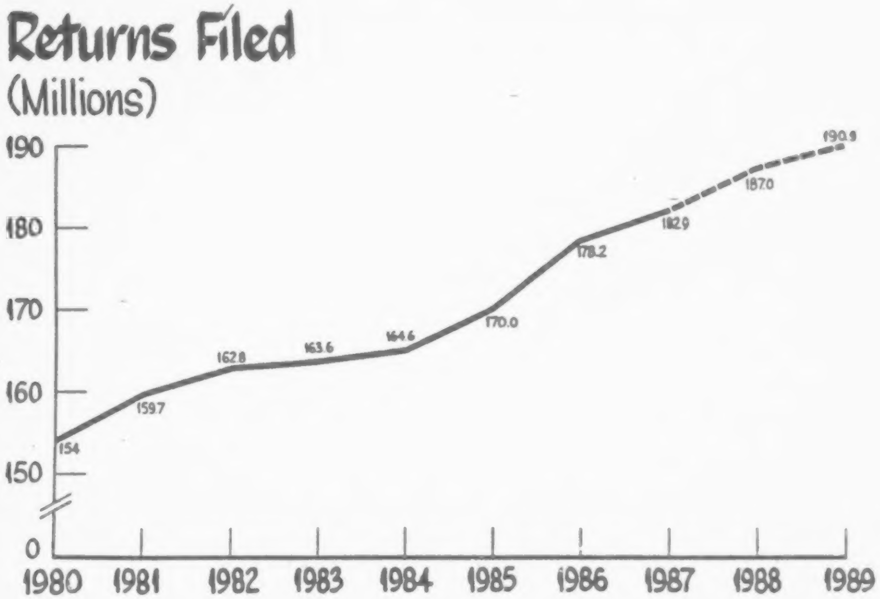
	Millions
Telephone Answering	37.4
Office Visits	7.2
Correspondence	0.2
Recorded Messages	12.0
Outreach	1.0
VITA/Tax Counseling	2.5
Taxpayer Education	3.7
TOTAL	64.0

TAXPAYER SERVICE WORKLOAD IN 1989

Turning away for a second from compliance to service, another way of showing you what we are going to be doing in 1989 in our taxpayer service area is to stress that with our telephone answering system, we estimate that we will talk to some 37 million taxpayers. Seven million will come to see us in our offices. We will have 200,000 letters from our district offices and national office going out during the 1989 year.

On our teletax or recorded message system, these are messages that you can listen to 24 hours a day, 7 days a week, by simply calling in to get to the over 150 recorded messages. We expect to receive 12 million calls. This has been steadily increasing and has been one of our more popular programs in terms of getting messages about tax information out to taxpayers.

We also expect, through seminars and outreach programs, to reach 1 million taxpayers. Our VITA and Tax Counseling Volunteer Programs will reach 2.5 million taxpayers. Our Understanding Taxes Program will reach some 3.7 million taxpayers. We will reach a total of 64 million taxpayers through our taxpayer service functions.



TAX RETURNS FILED

I think that it is important to see that the basic indicator of our work level continues to go up, that is, the tax returns that are filed. They will reach 191 million in fiscal 1989, that is even up from this year, where we estimate that we will receive 187 million returns.

Internal Revenue Service Program Responsibilities

	FY 1989
Tax Returns Processed	191 Million
Information Returns Processed	1.1 Billion
Refunds Issued	80 Million
Taxpayers Assisted	64 Million
Returns Examined	1.6 Million
Delinquent Accounts Collected	3.3 Million
Delinquent Returns Secured	4.0 Million
Gross Revenue Collections	$1.0 Trillion
Refunds	$ 90 Billion
Net Tax Revenues	$910 Billion

FISCAL YEAR 1989 PROGRAM RESPONSIBILITIES

The final chart is simply a way to summarize what our program responsibilities will be for fiscal year 1989. Again, we will receive and process 191 million returns; and 1.1 billion information documents—information returns, 1099's, W–2's.

We expect to issue 80 million refunds, assist 64 million taxpayers, examine 1.6 million returns, collect 3.3 million delinquent accounts, and secure 4 million delinquent returns.

For the first time in our Nation's history, our tax system will produce gross revenues in fiscal year 1989 of $1 trillion. When we subtract from that the refunds of $90 billion that we will pay to 80 million taxpayers, it brings us back to a net of $910 billion.

PREPARED STATEMENT

Mr. Chairman, that concludes my presentation in terms of what we would hope to do with the funds that we are requesting for 1989, and we will be happy to answer questions.

[The statement follows:]

STATEMENT OF LAWRENCE B. GIBBS

I am very pleased to again come before this subcommittee, this time to present the Service's FY 1989 budget request. This first year of tax reform is important not only to those of us at IRS, but to all American taxpayers. In my testimony, I will cover what we at IRS are doing in 1988 and what we aim to accomplish in 1989.

First, I want to introduce our Senior Deputy Commissioner Michael Murphy; our Deputy Commissioners Charles Brennan for Operations and John Wedick for Planning and Resources; our Associate Chief Counsel Richard Mihelcic; Henry Philcox, Assistant Commissioner for Information Systems Development; Dominic Pecorella, Assistant Commissioner for Taxpayer Service and Returns Processing; all appearing before this committee for the first time, and our Finance Director Stephen Taylor. We will be pleased to answer any questions that you may have at the conclusion of my testimony.

Overview

Last year when I appeared before this subcommittee for the first time, I spoke of the important role that you and your predecessors have played in tax administration. This is evident in the additional flexibility you provided the Service in our FY 1988 budget to move funds within approved authorities, ensuring balance and effectiveness in our programs. This has been vital to our ability to properly implement tax reform, and all of us thank you for your assistance.

Tax Reform

I'd like to spend a few minutes tracing what we have been doing this past year to get ready for the 1988 filing season, the first under tax reform. In 1986 the United States Congress fundamentally reformed its tax laws, and this year, we are watching the full effects of those changes for the first time.

In 1987, IRS received 103 million individual income tax returns. In 1988, we estimate we'll receive 107 million individual returns, a 4 percent increase over last year.

For IRS, tax reform has set in motion a process of education, both for our own employees and for taxpayers and their representatives. We have undertaken extensive tax reform training programs for our workforce. We have revised or written hundreds of forms and publications and made them available to the public earlier than ever before. We have rewritten and tested our computer programs and handbooks for our service centers, changed our taxpayer assistance training materials, recruited and trained new taxpayer service personnel, and extended the toll-free telephone and walk-in hours for taxpayer assistance. In addition, we have begun new taxpayer outreach media efforts, joining forces with the Ad Council to inform the public of the tax law changes and to advise the public to think about taxes early with the message: "File early! -- make your taxes less taxing." With an implementation plan over 400 pages long covering several thousand different actions, we are faced with a challenge.

Taxpayer Service

Recognizing the need to maintain a balanced approach to tax administration, the House-Senate Appropriations Committee conferees added $7 million to taxpayer service in the Continuing Resolution for FY 1988 to provide services to taxpayers to assist them in meeting their tax obligations. In addition, the conferees directed that any additional funds which may become available during the course of fiscal year 1988 be devoted to enhancing taxpayer service programs.

The Service is doing just that. We are reapplying nearly $51 million this year to taxpayer service beyond the $7 million appropriated by Congress. We are thus achieving the level of taxpayer service contemplated by this committee last year. Expanding taxpayer service hours during this filing season is only one of our efforts to assist taxpayers in understanding and fulfulling their obligations.

Last fall over 90 million taxpayers received informational brochures from us telling them why they should start thinking about their taxes earlier than ever before. The brochure highlighted the major changes affecting millions of taxpayers such as reduced tax rates, increases in the standard deduction and personal exemption, and the phaseout or elimination of many deductions. The brochure also featured an order blank for a copy of the new IRS Publication 920, "Explanation of the Tax Reform Act of 1986 for Individuals," which contains a quick overview of how the major provisions of the new law differ from the old ones, along with more detailed discussions of the various tax law changes. Publication 920 has become a bestseller for us with nearly 17 million copies distributed.

Last summer we released versions of the major tax forms for public and Congressional comment, months earlier than ever before. Prior to their release, we tested drafts of the forms on taxpayers before finalizing the forms. During the late summer, taxpayer service began hiring and training additional telephone assistors, and emphasizing tax reform changes in training courses for all assistors. We have added additional positions in taxpayer service above last year's level and installed about 30 percent more telephone lines on our toll-free telephone system to handle taxpayer demand. We've expanded the IRS tele-tax recorded information service. Taxpayers can call in and listen to information on more than 150 tax topics.

We have expanded our taxpayer education programs. Community outreach seminars, covering topics such as withholding, itemized deductions, estimated tax payments and Individual Retirement Accounts will continue to be held throughout the year. We have recruited a total of 59,000 volunteers in our Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs, who have been trained to help taxpayers fill out their tax returns and answer tax questions during the filing season. Last year our volunteer programs assisted a total of 1.8 million taxpayers. We expect to assist some 7.2 million taxpayers through our taxpayer education programs throughout the country during the year including an estimated 956,000 who will attend seminars and receive group tax return preparation through the Community Outreach Tax Assistance Program.

We in the Service realize we have quite a job to do to explain the new law to taxpayers, particularly with all of the many changes in the new law that will affect many taxpayers. We have worked to develop new methods to rigorously measure and improve the technical accuracy of our answers to taxpayers. Improving taxpayer service quality also means ensuring that corrective measures are conveyed back to the taxpayer service workforce to improve their skills.

In close cooperation with the general accounting office, we have developed a new integrated test call survey system which became operational in January. The new system permits specially trained personnel in our headquarters office to place test calls to our answering sites in order to assess the courtesy and accuracy of our assistors' responses. The test call sample is prepared using data captured at each answering site and transmitted daily to Washington over a voice response system. The data shows the inquiries by category that we are receiving and is used to assure that our test questions accurately reflect both the volume and types of questions we're being asked by taxpayers.

Quality As Number One

The efforts I've mentioned emphasize what we as an agency have been doing all across the country this past year -- making a serious commitment to improve the quality of the products and services we are providing. We are asking questio~s of ourselves and judging our performance not by our own standards but those of our customers -- the American taxpayers. Tax administration takes place in a complex, constantly changing environment. We must be able to continuously provide high quality service to our customers in order to maintain their confidence and respect in our tax system.

Tax Processing

Nowhere is the standard of high quality and improved service more important than in our ten tax service centers which receive and process the tax returns. Last year filing season was one of the best we've ever had. It was record breaking in terms of the number of returns received, the rate at which we processed those returns, and the speed with which the service issued refund checks.

We will, therefore, continue to place high emphasis on achieving and maintaining high quality in our tax processing operations. We've reduced the backlog of accounts with unresolved balances due. We've reduced our level of unpostables -- where tax returns because of discrepancies cannot be credited to the master file of tax accounts. We've reduced the span of control in our centers to provide greater attention to employees by managers. We've expanded and improved training for all service center employees.

Nowhere is our emphasis to improve quality more evident than in our Federal Tax Deposit Quality Improvement Project. The federal tax deposit system is enormous, bringing in more than 80 percent of the revenues collected each year, affecting about five million businesses in the United States, touching virtually every part of our service center operation. We found there were significant problems with the FTD system.

Applying the analytical quality techniques that private industry is using to isolate and identify problems and develop comprehensive solutions, we already have several solutions underway including verifying the employer's name and identification number before an FTD coupon book is mailed or on over-the-counter coupons before giving them to employers.

The result has been a dramatic drop in FTD problems. In nine months time, we reduced our problem FTDs from three percent to three-tenths of one percent of the total. That meant fewer erroneous notices being issued and fewer problem cases to resolve.

The FTD project is but one example of the numerous quality improvement projects that the Service is undertaking all across the country. This investment in quality represents our commitment to ensuring that the right job is done the first time.

Rebuilding Tax Processing Operations

Over the past two years the Service has been involved in a process of rebuilding and determining the proper level for our tax processing operations. We greatly appreciate the support we have received from this subcommittee. Our rebuilding, however, has not just entailed fixing the computer problems we had in 1985, but also in improving quality throughout our ten service centers. From a budget standpoint the investment has been additional staffing; the return is that we have been able to do our most critical job right for the past two years -- promptly and accurately processing tax returns, paying refunds, and beginning the compliance processes for document matching, examination of returns, and collection of overdue accounts.

In 1988, to ensure timely processing of the 187 million primary returns and 11 million supplemental documents we'll receive, we are redirecting $76 million to our tax processing operations -- $7 million from excess Federal Employees Retirement System (FERS) funds and $69 million in savings in enforcement programs. This savings is due to late enactment of the FY 1988 Continuing Resolution (Public Law 100-202). These funds are being directed within approved authorities in a manner consistent with the enforcement revenue assumptions of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203).

If we are to capture the promise of tax reform and avoid the problems that result if taxpayers lose respect and confidence in our tax system, in my opinion it can only happen with your continued support along the lines I have just described. Without that support, I believe, tax reform and taxpayer respect and confidence for our system are in jeopardy.

FY 1989 Budget Request

Turning to our FY 1989 budget request -- our proposed budget totals \$5.3 billion and 113,811 average positions, an increase of \$240.8 million and 1,650 average positions over the revised FY 1988 level. Our FY 1989 budget continues to emphasize the importance of quality service to the public.

We are proposing a budget that will collect almost \$910 billion in tax revenue, net after refunds. We will process 191 million primary tax returns, issue 80 million refunds, provide information and educational material to every taxpayer, continuing our media efforts, and assist over 64 million taxpayers through all forms of assistance, including toll-free telephone service and taxpayer education. We will continue modernization of our computerized information systems to ensure a tax system that is both effective and fair as well as responsive and responsible to taxpayers. Finally, we will continue our participation in efforts to combat organized crime and drug abuse.

Ensuring Sound Tax Processing

It should come as no surprise that our first priority in 1989 is to make certain that our service centers are on sound footing. We aim to carry forward and maintain in 1989 the same key objectives we are trying to achieve in 1988, which the Congress has made possible.

To maintain tax processing operations in the face of a growing workload, we are requesting additional funds. We estimate that 191 million tax returns and 12 million supplemental documents will be received and processed in FY 1989, about 3.9 million more tax returns and 700,000 more supplemental documents than in FY 1988.

Contained in our budget request are resources to improve service center correspondence with taxpayers. We will mail 3.4 million additional notices containing interest and penalty computations and explanations to taxpayers on all taxpayer accounts where money is owed by the taxpayer and on refunds that include interest. Through improved communications with taxpayers, we will reduce the additional inquiries that would have required further responses by IRS, and improve overall processing operations.

We are also moving to increase the size of the problem resolution program staff in our ten service centers and 63 district offices. This program acts to solve taxpayer problems that have proved difficult to resolve quickly. The process aims at greater identification of system problems and their causes, to ensure taxpayer rights and efficient tax administration.

Maintaining a High Level of Taxpayer Service

In 1988, we are achieving an 85 percent level of taxpayer service. "Level of Service" represents the percent of taxpayer telephone inquiries that are answered on our toll-free telephone system.

Our FY 1989 program continues our efforts to make sure that we are there to answer the telephones when taxpayers call, that taxpayers receive prompt, courteous, correct, and complete answers to their tax law and account questions, and that training for our assistors is up-to-the-minute. Some 64 million taxpayers will receive direct assistance and taxpayer education. While the continuing thrust of our FY 1989 program will be to provide taxpayers with assistance on the provisions of the Tax Reform Act, we expect fewer taxpayers to contact us for help during the second year of tax reform.

We will continue to provide service to the public through our toll-free telephone, walk-in and correspondence programs. Our Community Outreach Tax Assistance Program will again provide tax law information and group tax return preparation assistance at community locations, including $2.7 million in tax counseling for those over 60. Our taxpayer information media campaign will continue with the aid of the Ad Council. Increased emphasis will also be placed on assisting taxpayers after the filing season with notice or account-related problems.

Information Systems Initiatives

IRS handles a massive work volume each year -- processing hundreds of millions of transactions and $886.3 billion in FY 1987, touching the lives of a significant portion of the population. Accurate and timely information is essential in carrying out our mission to administer the tax law promptly and fairly.

Right now, we can't provide the level of service we feel we ought to be providing to the public. We can't get information we already have out of our antiquated tax processing system to get the job done like it should be done.

An important objective in FY 1989 is to continue the modernization of our tax administration and other systems to ensure they can support a tax system which is effective, fair and responsive to taxpayers. The FY 1989 request for additional ADP and systems modernization of $137.4 million is aimed at continuing many ongoing ADP projects, including the redesign of the tax administration system.

The goal of our tax system redesign initiatives is to remove the barriers to quality and service in the current system to enable IRS to meet its obligations to the public. We have been working with Treasury, OMB, and Congress and are pleased with our progress over the last year. We have completed a comprehensive management plan that describes a vision of what we would like our system to look like in the early 1990's and into the late 1990's; the plan also describes the process that will allow us to achieve our vision. The process is well underway. We have completed a design concept which allows us to phase in the redesigned system in a way that minimizes disruption and risk. Our FY 1989 request contains the resources necessary to ensure that user needs -- those of the public as well as IRS needs -- are met and that users are actively involved in the design and implementation of the system. Hank Philcox, our Assistant Commissioner for Information Systems Development, is here with me today to answer any questions you may have about our redesign efforts.

It is important to understand that we must replace the antiquated tax administration system that is beginning to groan under the weight of demands it was not designed to meet. What I also hope to communicate to you today is that the system redesign will address the larger problem created by the current system -- the inability of IRS to provide more timely and better service to the public -- as well. The taxpaying public is accustom to dealing with private sector organizations which have the capability to retrieve information quickly and accurately. IRS must be able to provide the kind of service to our customers that is equal to or on par with what is available in the private sector.

The Integrated Collection System builds on the success of the Automated Collection System to bring all collection automation efforts into one integrated system. This system will improve service to the taxpaying public and assist us in managing our ever increasing workload.

ADP projects such as Electronic Filing and the Automated Taxpayer Service System seek to bring automation to the direct services to taxpayers that IRS performs. Specifically, the Automated Taxpayer Service System is designed to decrease the cost of providing assistance while improving the quality and responsiveness of assistance to the public.

The Electronic Filing Program, now in its third year, is perhaps our best hope for substantially reducing the cost and burden of collecting tax information. It essentially automates the steps of filling out and submitting a tax return to IRS and IRS receiving and processing that return. Over the last three years the program has grown to accept both individual and business returns and expanded from three metropolitan areas to 16 IRS districts, 10 of which comprise complete states. By 1991, we expect electronic filing to be available nationwide. This year for the first time IRS will offer taxpayers in all electronic filing locations the option of having their refund deposited directly into their bank account, by electronic funds transfer.

We believe the growing volume of individual electronic returns shows the public interest in the program. During the 1986 filing season some 25,000 electronic returns were filed. Already this year, over 100,000 returns have been filed electronically. Next year, the program has the potential to reach a significant portion of the taxpaying population.

As we enter the 1990's and confront increasing workload demands, IRS cannot hope to meet the needs of its customers, the American taxpayers, without modernizing its information systems. It is crucial that full support be given to our ADP systems modernization request.

Law Enforcement

One item in our request that I particularly want to emphasize is the addition of badly needed resources in Criminal Investigation to maintain a balanced enforcement effort.

Increased staffing will be devoted to drug enforcement and money laundering activities and our general enforcement program, permitting IRS to continue its efforts in the more traditional criminal tax investigation activities as well as the Thirteen Organized Crime Drug Enforcement Task Forces and Operation Alliance, a multi-agency drug initiative along the Southwest border. IRS continues to be first among all the Treasury bureaus in the level of our commitment of resources to anti-drug task force operations related to financial investigations. Our request includes funds to upgrade our obsolete, non-secure two way radio system to make it compatible with other law enforcement radio systems and provide greater security for our agents.

International Tax Administration

With more U.S. taxpayers living abroad, more American corporations conducting business in foreign markets, and greater numbers of non-residents having U.S. sources of income, IRS must ensure that taxpayer assistance and a compliance presence is felt both at home and abroad. Our FY 1989 International program expands taxpayer service and education abroad by instituting an aggressive public affairs program in the international media on U.S. tax requirements, expanding the number and length of overseas assignments by taxpayer assistors, and initiating a toll-free telephone assistance program for taxpayers in Canada and selected European countries.

Increasingly we are asked by foreign governments to provide assistance in treaty development, joint tax administration endeavors, and exchanges of information on foreign tax cases. Joint resolution of tax jurisdiction is particularly important in cases of double taxation, to determine the proper amount of taxes owed to the United States Government. Our request contains a $1.1 million program increase to meet the growth in workload in this area.

A Balanced Approach

In my remarks today, I have stressed IRS' role of service to the American public. At the same time it is important to remember that the Service is one of the principal agencies of our federal government capable of addressing the budget deficit through both our compliance and service programs. IRS continues to be an effective revenue center for government, generating the revenues upon which the other functions of government depend, at a cost of about 49 cents for every $100 collected.

Our budgets in 1988 and 1989 provide a balance between service to the public and ensuring compliance with our nation's tax laws. I remain convinced that a balanced approach is essential in the long run to sound tax administration.

Closing

What makes our tax system unique is our history of voluntary compliance. How we maintain that tax system will determine the degree to which that compliance will continue. In the long run there is only one way to maintain confidence and respect in the system -- by providing high quality service to taxpayers. This budget, we believe, helps support this aim.

Mr. Chairman, this concludes my prepared remarks. I will be pleased to answer questions you or the members of the subcommittee may have.

BIOGRAPHY OF MICHAEL J. MURPHY

Mike Murphy was born and raised in Green Bay, Wisconsin. After graduating high school, Mr. Murphy served three years in the United States Air Force stationed in Texas. He returned to Wisconsin to continue his education, after his discharge from the Air Force, where he received a Bachelor of Arts degree in Business Administration from Spencerian College in 1962.

Mr. Murphy joined the Internal Revenue Service in 1962 as a revenue agent. After holding progressively responsible positions, in 1970 he entered the Service's management ranks as Chief, Office Audit Branch in Milwaukee. In 1972, Mr. Murphy was promoted in Milwaukee to the position of Assistant to the District Director for Stabilization. From that position, he was selected for executive training and graduated from the Service's Executive Development Class of 1973.

Mr. Murphy has held several key executive positions within the Internal Revenue Service. In 1974 he moved to Washington, D.C. to serve as the Assistant Director of the Office of International Operations. He was selected for the position of Assistant to the Deputy Commissioner in 1975. In 1977 Mr. Murphy accepted the position of District Director for the Des Moines District and in 1980, he was selected to serve as the District Director for the Atlanta District. Mr. Murphy moved to Philadelphia in 1986 to serve as the Regional Commissioner for the Service's Mid-Atlantic Region. He returned to Washington in 1987 to accept the position he now holds, Senior Deputy Commissioner of the Internal Revenue Service.

BIOGRAPHY OF CHARLES H. BRENNAN

Mr. Brennan began his career with the Internal Revenue Service in 1957 as a Revenue Agent in Syracuse, New York. After progressing to positions of increasing responsibility he was chosen for the IRS Executive Selection and Development Program, which offers specialized training to employees who demonstrate executive potential.

Upon completion of the Executive Development Program in 1970, Mr. Brennan served as the Assistant District Director in Milwaukee and the Assistant District Director in Manhattan in 1971. He was appointed the District Director in New Orleans in 1973, the District Director in Brooklyn in 1974, the District Director in Manhattan in 1975 and the Regional Commissioner of North Atlantic Region in 1985. Mr. Brennan was selected as the Deputy Commissioner for Operations in August 1987.

Mr. Brennan received his Bachelor's degree with a major in accounting from Lemoyne College in 1957.

During his career with the Service, Mr. Brennan received many awards, most notably the Meritorious Presidential Rank Award in 1982 and the Distinguished Presidential Rank Award in 1985.

BIOGRAPHY OF JOHN L. WEDICK, JR.

John L. Wedick, Jr., was born and raised in Bethlehem, New Hampshire and graduated with honors from the University of New Hampshire. He is also a graduate of the Maxwell School Mid-Career Program at Syracuse University, the Senior Managers in Government Program at Harvard University, and the Dartmouth Institute, Dartmouth College. A Certified Public Accountant in Virginia, Mr. Wedick is a member of the American Institute of Certified Public Accountants.

He began his IRS career in 1958 as a revenue agent in New Hampshire and rose through the ranks to become the National Director of Examination for IRS in 1975. In 1982 he was named Assistant Commissioner for Planning, Finance and Research, a post which he held until his appointment as Deputy Commissioner (Planning and Resources) in August, 1987. As Deputy Commissioner, Mr. Wedick serves as principal advisor to the Commissioner on Servicewide planning and the management of human, financial, and information resources. He oversees the activities of the Assistant Commissioners (Human Resources

Management and Support), (Planning, Finance and Research), (Computer Services), and (Information Systems Development).

In 1986 he was the recipient of a Presidential Rank Award for Meritorious Service given to a member of the Senior Executive Service "in recognition of sustained superior accomplishment in the management of programs of the United States Government and for noteworthy achievement of quality and efficiency in the public service."

BIOGRAPHY OF RICHARD J. MIHELCIC

Richard J. Mihelcic was born and raised in Pittsburgh, Pennsylvania and graduated from high school in 1964. He received a BS degree in 1968 from Penn State University and a JD degree in 1973. While in law school, Mr. Mihelcic worked in Zwerdling, Mauer, Diggs & Papp in Washington, D.C. as a law clerk from 1971 through May of 1972, then joined the firm of Murtha, Cafferky, Powers & Jordan in May of 1972 through June of 1973, also as a law clerk. In August of 1973, he joined the firm of Arthur Anderson & Co., until August of 1975.

During August 1975, Mr. Mihelcic joined the Office of Chief Counsel where he worked as an attorney for the General Legal Services Division. He received several promotions in GLS, one of which was the position of Chief, Branch 1, which provided all legal services in the area of labor and management relations.

In 1985 Mr. Mihelcic served as Acting Director, Operations Division and in 1986 he became Director, Operations Division and had responsibility for the direction of all administrative and management support activities for the Office of the Chief Counsel organization and for providing legal advice and assistance to the Deputy Chief Counsel in carrying out the legal functions of the organization. During a recent reorganization of the Office of the Chief Counsel, Mr. Mihelcic became Associate Chief Counsel, Finance and Management. In his new position, Mr. Mihelcic is responsible for the management and operations of the Office of Chief Counsel. In addition, he serves as the financial plan manager and chairman of the Executive Resources Board and oversees the General Legal Serves Division.

BIOGRAPHY OF HENRY H. PHILCOX

A native of Reno, Nevada, Henry Philcox received a bachelor's degree in accounting from the University of Nevada in Reno, and has had extensive graduate level education in tax law, computer science, and management. He began his career with the IRS in 1967 as an Internal Revenue Agent in Reno, Nevada. He held a series of increasingly responsible positions in Las Vegas, Nevada, San Francisco, California, and Ogden, Utah. In 1980 he was chosen for the IRS Executive Selection and Development Program, which offers specialized training to career employees who have demonstrated executive potential.

After completing the program in 1981, Mr. Philcox served as the Assistant Service Center Director in the Memphis IRS Service Center and then as Assistant Regional Commissioner (Data Processing) in the Southwest Region in 1984. In 1985 he was named Deputy Assistant Commissioner for Returns and Information Processing, and in 1986 was assigned as Assistant Commissioner (Tax System Redesign). The position was later broadened and renamed Assistant Commissioner (Information Systems Development).

In his position as Assistant Commissioner (Information Systems Development), Henry Philcox is responsible for providing management and technical direction to accomplish the orderly acquisition and implementation of a redesigned tax system and for coordinating all information systems development activities.

BIOGRAPHY OF DOMINIC E. PECORELLA

Dominic (Ed) Pecorella, a native of Brooklyn, New York, is the Internal Revenue Service Assistant Commissioner for Taxpayer Service and Returns Processing. In his position, he is responsible for planning and directing taxpayer assistance, processing tax returns, accounting for the revenue and compiling statistical data concerning Federal tax laws.

Mr. Pecorella received his Bachelor's degree in Accounting from the Merrimack College at Andover, MA. He began his IRS career in 1961 as a revenue agent in Boston. After holding a series of increasingly responsible positions there and at the IRS service center in Andover, MA, he became Chief, Taxpayer Service Division at the service center in Holtsville, NY. In 1975, he was chosen for the IRS Executive Selection and Development Program, a program which offers specialized training to employees who demonstrate executive potential.

Upon completing the program, Mr. Pecorella was named Assistant Director in the Ogden Service Center and, in 1980, he became the Director, a position he held until his appointment as Assistant Commissioner in June 1986.

Mr. Pecorella has spoken at a number of conferences, meetings and seminars; namely, the American Bar Association in San Francisco, CA, the Bank Tax Institute in Washington, DC, the American Institute of Certified Public Accountants in New York, NY, the Rotary Club in Boise, ID, and the Utah State University Annual Accounting Seminar in Logan, UT.

TELEPHONE ASSISTANCE

Senator DeConcini. Commissioner, thank you.

Let me first go back to the chart on the taxpayer assistance. You were having a lot of problems with your telephone answering service, according to hearings that you had before the Government Operations Committee, Senator Pryor's subcommittee.

Has that been corrected, or is it still whatever it was, 20 to 30 minute delays? Can you give us a little update on that?

Mr. Gibbs. Senator Pryor actually indicated that he had had difficulty on the morning that he personally tried to contact us. One of the things that we found was that the switching capability that AT&T was supposed to provide to us was not working on the morning that he called. We have not only received complaints from him but we had complaints from several others.

It is something that we have addressed in that particular instance. I am happy to tell you that 85 percent of the taxpayers this year are reaching us. That is, basically, what we had funded for this year and what we had predicted.

We think, at least from the standpoint of taxpayers reaching us, that is largely an issue that we have not heard a great deal of complaints about. But we have had complaints about the accuracy of the answers that we were giving. Those complaints arose because the General Accounting Office indicated that we were answering only 60 percent of our questions correctly. Our information showed that we were answering over 70 percent correctly.

We have been doing several things. One, we have been providing additional training to increase the accuracy of our responses. Again, this is a system that is designed not only to measure the accuracy, but help us improve it. We have been giving the additional training, and both our trendline and GAO's trendline is up. We are still working with GAO to see if we can resolve the discrepancy between their figures and our figures. I would anticipate having a report later this year on that.

Senator DeConcini. Is the switching station or whatever it is working this morning?

Mr. Gibbs. It is, as best I know. When we were coming over here this morning, we checked it.

Let me tell you, Mr. Chairman, we have had in some places some problems. They have been isolated, they have not been recurring, but we are beginning to check the telephone company capability in terms of having the switches thrown open so that the lines are open so that people can get into us.

OTHER STATEMENTS FOR THE RECORD

Senator DeConcini. Mr. Commissioner, before I proceed, does anyone else in your group have a statement that they would like to enter?

Mr. Gibbs. I don't believe so, Mr. Chairman.

REPROGRAMMING

Senator DECONCINI. Your statement indicates your intention to request a reprogramming of $76 million out of FERS and enforcement programs into tax processing operations. You attribute this proposed reprogramming to the lateness of the enactment of the continuing resolution.

You say that this reprogramming will be consistent with the enforcement revenue assumptions of reconciliation.

Last year, we were constantly hammered about how we should not take another penny out of IRS enforcement or else we would breach the economic budget summit accord. Now you tell us you can take $69 million out of the enforcement and still meet the revenue targets.

What happened, besides the late enactment of the continuing resolution?

MEETING REVENUE TARGETS OF BUDGET SUMMIT AGREEMENT

Are you absolutely positive that if we approve this reprogramming that you will meet the revenue targets of the economic budget summit?

Mr. GIBBS. Mr. Chairman, let me see if I can explain that.

When we went into fiscal 1988, I think we were projecting that we would be able to collect net about $2 billion additional this year with the additional enforcement capability. Because we were late in actually having the continuing resolution passed, my understanding in the budget summit was that it was recognized that we were one-quarter late and those numbers were adjusted accordingly down from $2 billion to $1.6 billion. The revenue agents, the revenue officers, and so forth, are not going to be required to produce the $2 billion, but rather $1.6 billion pursuant to the budget summit agreement.

Where the reprogramming came from was, my understanding is that the Congress, recognizing we were going into tax reform, permitted us as an agency to retain the amount of dollars that had been given to us in the original compliance budget. Therefore, when we reduced the number of dollars that would have to come out of examination and collection programs it meant that we had some additional resources which, then, you authorized us to reprogram into the centers and into taxpayer service this year. That is where that comes from, and I don't think that it will impact on our ability to raise the revenue.

Senator DECONCINI. You will still be able to, in your best judgment?

Mr. GIBBS. Yes, sir; with the discount of the $2 billion to $1.6 billion. You may be interested to know that we have a full complement of revenue officers and revenue agents, people who are doing the collection and doing the examinations. We do have a full complement on board already this year, and we do expect to meet those revenue targets.

UNFILLED POSITIONS

Senator DeConcini. Along that line, all three of your major program accounts showed huge numbers of unfilled positions at the end of fiscal years 1987, 1988, and 1989. For processing tax returns, your unfilled positions at the end of 1988 will be 3,160, 3,293 at the end of next year. For exam and appeals, the numbers are 5,294 and 5,337 for 1988 and 1989. For investigations, collections, and taxpayer service, your unfilled positions will be 2,534 and 2,545.

Why is IRS having such a hard time filling these positions, and what effect, if any, will these unfilled positions have on your revenue raising estimates for fiscal years 1988 and 1989 that are built into the economic budget summit?

Mr. Gibbs. Mr. Chairman, I am going to ask Steve Taylor, our Finance Director, to get into the details with you. I understand it is a normal lapse or difference between FTE's and also positions. I would like to ask him to actually get into the details with you.

Senator DeConcini. Mr. Taylor.

Mr. Taylor. Yes, Mr. Chairman; there is a distinction between a permanent position and a permanent position filled for the full time over the course of 1 year. We acknowledge and we budget on the basis that not every one of our permanent positions will be filled at every moment of the year. It takes some time to recruit and replace vacancies. Therefore, there is a normal budgetary distinction between permanent positions and average positions.

Senator DeConcini. I understand that. I can appreciate that, Mr. Taylor, but isn't 3,000 and 5,000 an awful lot of positions?

Mr. Taylor. Out of 113,000 positions, it is, I believe, Mr. Chairman, a normal lapse rate. Let me emphasize also that when we present estimates of accomplishment to the Congress, those estimates are based on FTE, full-time equivalency, or the average position. Our estimated accomplishments and our hiring plans are consistent.

Senator DeConcini. It just seems to me that if you look at 1988, you had 3,160 unfilled positions in processing. In 1988, you had 5,294 in exam and appeals. Investigations, collection, and taxpayer service, you had 2,534. That is over 10,000, and it is almost 10 percent of your total employment.

Isn't that a bit high? Isn't there anything that can be done to fill those positions, and will you be able to have a better rate of filling the positions this year?

Mr. Taylor. Mr. Chairman, our vacancy rate, our attention rate has run historically in the 10- to 11-percent range. This is acknowledged and recognized in the process of budgeting, so that the program results that we present to you acknowledge that. The dollars we are requesting acknowledge that it is the average employment that we are funding. This is a normal——

Senator DeConcini. Why is that so normal? Is it not enough pay, not enough qualified people? It seems awfully high.

Mr. GIBBS. I agree with you in terms of it being high. I don't know what it is across Government, but I can tell you that when we go out to basically attempt to recruit and retain our folks, and particularly something as highly specialized as, for example, our revenue agents, our attorneys, people who are dealing with a somewhat difficult and complex area, and who have a very high market value in the private sector, this is something that is of concern to us.

NUMBER OF EMPLOYMENT APPLICATIONS PENDING

Senator DECONCINI. How many applications do you have pending in a standard period of time; is it dozens, hundreds, or thousands? Are people not applying for these jobs?

Mr. TAYLOR. It will vary, Mr. Chairman, by positions. Our practice is to go to the campuses as soon as we can.

Senator DECONCINI. That doesn't answer my question. How many applications are pending? Do you have 10 times more than the spaces that are vacant, or 2 times more?

Mr. GIBBS. I wonder if I could pass this down and ask our associate chief counsel?

Mr. MIHELCIC. Mr. Chairman, I can address the attorney situation in the Internal Revenue Service.

We have had a significant reduction in the number of applicants over the last 3 or 4 years. By way of example, historically, the counsel organization would entertain upwards of 1,000 applications a year through the early 1980's.

Senator DECONCINI. How many would you be hiring?

Mr. MIHELCIC. We would hire perhaps 100 attorneys a year.

Senator DECONCINI. So, it is 10 to 1.

Mr. MIHELCIC. This past year, we received approximately 280 third year law student applications.

Senator DECONCINI. For the same number of positions?

Mr. MIHELCIC. No; our staffing has gone up. We are looking to hire more attorneys. We are looking at a situation where we want high caliber people, high quality, yet the number of applicants has gone down dramatically. The trendline, by the way, is continuously down. We had 400 applications the year before, and 600 the year before that.

Senator DECONCINI. Thank you, that is helpful.

Is that happening in your enforcement, examination, and other areas?

Mr. GIBBS. We don't have the head of our Human Resources Program here. I would like, if you wouldn't mind, to submit a statement, for the record, that would basically show you that we have the same thing there.

Senator DECONCINI. I don't want to be unfair about it. I just would like a better understanding of why we have this big discrepancy.

SHORTAGES IN CERTAIN EMPLOYMENT CATEGORIES

Senator MIKULSKI. If the chairman would yield, just to pick up on what we are saying.

First of all, our country is heading for a work force shortage. We are going from a labor supply to a labor shortage, that is No. 1. No. 2, when we look at work force readiness, one has to look at the fields where you have a shortfall. You have just talked about attorneys. Is this across the board in accounting—I am sure, in accounting, which is a shortage throughout the public and private sectors. What about in clerical areas, paralegal areas?

When you submit your paper for the chairman, could we identify what areas?

Mr. GIBBS. Senator Mikulski, I will be happy to. Particularly, remember that one of the things that we are talking about in our 1989 budget, and that we are going to be talking about as another area, is the computer area. We will be glad to break them down by category so that you can see.

The Internal Revenue Service is really a conglomerate of a lot of occupations—accounting, computer programming, clerical. We have taxpayer assistance that is a combination not only of the technical side, but also of public relations and outreach, and that type of thing. I would be delighted to give you a detailed breakdown in terms of the information that we have available.

[The information follows:]

THE NUMBER OF APPLICANTS AVAILABLE FOR EACH VACANCY IN CERTAIN PROFESSIONAL AND CLERICAL SERIES

The following servicewide figures are for the last 6 months (October 1, 1987–March 29, 1988). The applicants column has been adjusted to exclude duplicates (same name on different lists), declinations, no shows, and no longer interested applicants.

Positions	Vacancies	Applicants	Applicants per vacancy
Revenue agent	1,989	4,964	2.5 to 1
Tax auditor	628	3,801	6 to 1
Revenue officer	1,472	8,921	6 to 1
Criminal investigator	235	612	2.6 to 1
Computer programmer	268	820	3 to 1
Clerical	2,518	4,626	1.8 to 1

The main concern of the Service the last few years has been the shortage of quality applicants. Although an applicant pool in some areas may appear to be sufficient in number, it is not providing enough quality applicants for selection. For example, the Internal Revenue Service hires accountants in the 54th percentile of those taking the American certified public accounting examination. Those being hired by the big eight accounting firms are in the 86th percentile.

DISPARITY BETWEEN THE PUBLIC AND PRIVATE SECTORS

Senator MIKULSKI. Not to take the chairman's time but, for example, I know that as women are studying law and entering that line of work, the law firms have a schedule of 7 days a week, 32 hours a day, before they will even wink at you to be a partner. Many women want to be able to combine both their career and family life. The idea of being an attorney with IRS, with perhaps some flex time, knowing that there would be certain peak-hours, et cetera, would seem to me an attractive place, particularly if there are other, what I would call, employee enhancements like flex time, and so on.

Mr. GIBBS. I recently wrote a letter, that I would be pleased to share with you, to Chairman Paul Volcker of a commission that is taking a look at the overall Federal employment and what can be done. I would be happy to share that letter with you. It is a long letter, and I have listed what I thought we were trying to do as an agency, and what I thought might be some constructive ideas that his commission, and perhaps the Congress, could look at to help us here.

The comment that I made previously that I will make again is this. It really surprised me, Senator Mikulski. Mr. Mihelcic told me earlier this year, when we were at a retirement for one of our attorneys who was a Harvard law graduate and had been with the agency for about 35 years that this gentleman was retiring at a rate that was below what the law firms in Washington, DC, were paying for their first year associates.

I recognize that there has got to be a gap of some type, and I am not suggesting that people won't come to the Government even if there is a gap. But at some point, the gap gets ridiculous. It is the most ridiculous measure that I have seen in terms of the disparity of a beginning associate making more than someone who has been with us for 35 years, a Harvard law graduate who is retiring.

Senator DECONCINI. Commissioner, thank you for that information. I think the Senator from Maryland really raises a good point. We ought to look at this from the standpoint of all agencies, certainly yours, because of what we are banking on here is certain collection bases, and if you are running 10 percent and have been normally, and your applications are down, it seems to me that we are headed for a higher vacancy factor.

I will ask one more question and then yield to the Senator from New Mexico. I have about 20 questions I would like to ask you, but due to time, we will submit them.

ABSENCE OF NEW INITIATIVES IN FISCAL YEAR 1989 BUDGET

Your budget for fiscal year 1989 includes no new initiatives aimed at collecting more revenue over and above the economic budget summit targets. I am informed that your original submission to OMB, however, contained a number of new revenue-raising initiatives in both the examinations and collections area. OMB apparently turned you down.

The first question is, what revenue-enhancement initiatives were contained in your original submission; how much more money would have been provided; and how much more revenue would you have been able to take in under your original submission?

Mr. GIBBS. The original submission that we made asked for an additional 6,800 average positions in examination, collection, returns processing, and the international area, all revenue raising. It would have had an additional cost of about $286.6 million. We estimated that for fiscal year 1989, it would have produced $1.120 billion, and for fiscal year 1990, about another $2.222 billion.

Senator DECONCINI. What was OMB's reason? Did they give you a reason?

Mr. GIBBS. My understanding, Mr. Chairman, was this, in discussing it with OMB, it was indicated to me that in the budget summit agreement last fall there was specific agreement between the Congress and the administration on outlays and revenue targets. The revenues for the Internal Revenue Service for 1988 and 1989 were included in both revenue side and the outlay targets for 1988 and 1989 as well. To provide this would have exceeded both the outlay and the revenue targets.

Senator DECONCINI. Could you break that down for us as to what it is?

Mr. GIBBS. Surely.

Senator DECONCINI. If you were to receive $300 million for collection, audits, and what-have-you, you would be well over $1.1 billion for 1989. Is that correct?

Mr. GIBBS. That is correct.

Senator DECONCINI. Thank you.

I will yield to the Senator from New Mexico.

Senator DOMENICI. On that last question, Mr. Commissioner, was that a net figure, or do we just do the subtraction?

Mr. GIBBS. It was a gross figure.

Senator DOMENICI. We do the subtraction and we end up with the right number.

QUOTAS

I, too, have a number of questions, but in the interest of time, I am going to submit most of them, with the exception of two areas, for the record, and hopefully you will respond as quickly as you can.

The Washington Post, on March 13, had a major article, it was called "Punish or Perish at the IRS." Frankly, I have been fully aware of the fact that you, the Secretary of the Treasury, and many have come up here and told us, if you give us *x* hundred millions of dollars for increased enforcement of the law, in what I presume to be a fair, nonarbitrary, noncapricious manner, it will yield anywhere from four to six times the amount expended in new tax dollars. In fiscal year 1988, $400 million was supposed to yield $2.4 billion, which was six times. Even if that is not the right ratio, we are continually told of the revenue yield on the investment, and here again you have given us another number.

Frankly, I am fully aware that you have difficulties in recruiting. I have a couple of thoughts about that that I want to make shortly. But I just want to ask you, do you or do you not, as the chief tax collector in this country, support a quota system for your agents?

If you don't, how do you distinguish what exists out there when we read about the pressure that is on these agents? How do you distinguish what is there from a quota system?

I frankly believe that a true quota system for agents, for regions of the country, for offices, would completely vitiate the support for increased compliance money. I can't tell yov how strongly I feel about it.

It is absolutely intuitive that if we believe up here that you have set some mandatory quotas on these people that are out there working with what are generally good citizens in the United States, I believe the enforcement activities are going to dry up in this country.

I am asking, do you have that kind of quota system? If not, how do you explain the kind of pressure that is on the agents to get their jobs done?

Mr. GIBBS. Senator Domenici, I would like to tell you flat out, I do not support nor do I agree with nor do I think that we should have quotas of any type in the collection area.

One of the things that that article seemed to be saying was that quotas are a way of life. I couldn't tell from the article whether the suggestion was that they ought to be a way of life. If that is the implication, then I disagree with it. I do not think that you should have, and I believe that you can operate without quotas.

Have we had situations where our people have made improper use of enforcement statistics in the past? Yes; we have, Senator Domenici. As that article points out, we have had situations of that type. Frankly, we have taken action with respect to it.

After the hearings last summer, we went back with further training, and we also went back with more specific guidelines. But we are doing something that is very different from what we have ever done, particularly in the collection and examination areas. I would like to tell you what it is.

The problem that I have with our policy statement—that policy statement, by the way, being in the taxpayer bill of rights—is that it tells our people what not to do. It says, "Don't use enforcement statistics." Senator Domenici, I don't think that this helps someone on the front line very much to tell them what not to do.

What we have started, within the last 18 months that I have been the Commissioner, is to begin to develop at the working level criteria as to what constitutes a quality collection action, what constitutes a quality examination action. It is an entirely different approach to collection and examination, trying to train the people as to how to approach what they are doing so that if they do it the right way, the numbers will flow. The idea is to get away from simply dollar amounts, comparing one another in terms of how they are doing with respect to collections, or seizures, or anything like that.

Coming back and actually spelling out what the criteria would be, quite apart from dollars, if people adopted those criteria and were compensated and promoted on those bases, then we believe that the dollars would flow.

We have a project manager, and we are actually doing this work. I hope that by the time we get to this hearing next year, or before that time, we can come back and actually show you what our new system is in terms of rewarding our employees in terms of pay and promotion in the collection and examination area, to try to perform the work that they have to do, difficult as it is, and at the same time not have the numerical statistics driving the actions.

Senator DOMENICI. Let me just sneak in one further observation about that article, and my own qualms about quotas. I will repeat, if the average taxpayers believe there are quotas, it is the most negative aspect of tax compliance, and it will, as certain as anything else, bring down the wrath of average taxpayers on the IRS and those of us who are trying to enforce our laws.

Second, I believe any kind of quota, direct or implied, is an encouragement to agents to attack the mass returns and not the long-standing, large, delinquent, complicated accounts. Frankly, I am hopeful that this will not occur in this Government.

It seems to me that you can go after the small taxpayers for small errors and get a lot of dollars, but it soon becomes harassment if it is motivated by quotas. Whereas, the very complex, large taxpayer delinquencies can be ignored because they are so time consuming, they won't show up, they don't yield quick results.

It is just a part of the American system out there that the big ones are small in number, and the average ones are very large in number. I hope that you understand that this is a very great concern of many of us. I will give you a moment for your rebuttal to that, then I will move to two others issues, and submit the remaining questions.

SYSTEM FOR COLLECTING DELINQUENT ACCOUNTS

Mr. GIBBS. Indeed, I don't want to rebut anything. I agree with you on both counts. I would like to tell you, I agree with you wholeheartedly on the need to eliminate not only the fact but also the appearance of quotas in collection and examination. That is the reason for this new program, to try to replace it with something. Instead of telling employees, "Thou shalt not use it," which just doesn't work in my opinion, that is not the way human nature works. You have to fill the void. You can't just tell people what not to do.

Second, on your second point, and I think it is very important, and that is, you are saying: Commissioner, do you have something in place that your employees could use to begin to identify the more difficult and the more complex delinquent accounts?

The answer is, yes, Senator, that is something else that within the last year, we have put in. We have a system—the employees don't see this—the system ranks the accounts in terms of the larger accounts that will have the more likelihood of a greater yield.

It ranks those, and this is the way that the cases are assigned to our collection employees so that we have our actual people in the field and on the telephones handling the more difficult and the larger dollar cases.

We think that this makes sense from the standpoint of revenue yield, but we think, more than that, it makes sense since these cases tend to be the larger involving wealthier, and more sophisticated folks that we are dealing with.

Do we always deal with those? No, but that is at least something that we are trying to do this year that is new in terms of how we assign the cases.

OUTCOME OF 1988 FILING SEASON

Senator DOMENICI. Mr. Commissioner, I just want to quickly go through two items.

One, you have indicated that 42 percent of the taxpayers have already submitted their returns, and that the error rates are down, and all indicators are on the positive side, even with the new law that is obviously complex for some Americans.

In spite of those good numbers, are you telling us that when the tax year ends, it is your prediction that we will have the average year number of extensions; or are we going to have many more?

I sense that the ones that are getting their returns in are those that are easier and simpler, and rather automatic. Those with complex problems are waiting an inordinately long time to file because of partnership complexities in the statutes, dual partnership years that had to be accounted for.

What is your estimate to this committee; where will we be come April 15?

Mr. GIBBS. Senator, I can tell you what we project. We are projecting that there will be additional extensions this year over last year. We also project that some of the higher dollar returns will begin to come in between right now and the end of the filing season.

I suppose what I am really saying is this, with my numbers, I am saying that I think two things are important as we look at this filing season, both as it plays out and when it is all over, and that is to set things in context.

We still have about 50 percent of the returns to come in, about one-half of the returns. But we know from the 42 percent at the end of last week, about 50 percent is what we are projecting as of the present time, we know, we don't have to guess with respect to what we have already seen.

All I am saying is, as we look at the filing season as a whole thus far, we have seen that people have been able to cope. Now, what are we going to see between now and April 15? We don't completely know. I am not trying to say that there aren't difficulties out there. I am not trying to say that for the wealthier individuals and the larger corporations, it is not more complex. It is. I am also not saying that those folks won't pay more. They will, they were intended to.

I am saying, let's take a look, as we get to the end of the filing season, let's take a look at it overall, and see how people were able to cope with it, and see if we can begin to get a handle on the number of people where it was easier for them this year than last year, and the ones where it was more complex, and the areas in which the complexity occurred.

BUDGET SUMMIT AGREEMENT

Senator DOMENICI. Mr. Chairman, I have two questions that relate to some extent to some of your questions. One is the IRS compliance revenues. I am having a great difficulty in understanding why the 1988 budget has $2.4 billion in receipts for the enforcement add-ons, and I am having difficulty understanding why $3.1 billion is being carried in 1989 instead of $2.9.

I think those two numbers were part of the summit agreement. The Treasury Department and the President's budget has increased the revenue expectation from the enforcement, in my opinion, and I would just like that answered. I think in the scope of things, for you and me, it is a little more urgent than some of the administrative ones.

TAX GAP

Then I have a general set of questions on this tax gap. We have all kinds of political rhetoric around about balancing the budget with the tax gap, enforcement against those. Frankly, I don't believe that we can continue this arithmetic increase that everybody says, put in $300 or $400 million, and you will get six times the return. I have a series of questions on the realisticness of the tax gap proposition. I don't need an answer now, I would just like it for the record.

EFFECT OF TAX REFORM CHANGES ON ARTISTS AND WRITERS

My last one has to do with—I assume, under the new tax law, you are getting a lot of complaints because certain groups out there have suffered a substantial change in the way they can account for their businesses. I wonder if you would be able, for the record, to give us sort of a list of those that stand out most predominantly by way of taxpayer complaint.

I have one in mind, and I will just share it with the committee. For some, it may not be terribly important, but for my State it is enormously important. That is the change in the law with reference to overhead expenses for writers, artists, sculptors, and those in that kind of an activity. It is a very big business in the United States.

Under the current interpretation of the new tax law, just take a sculptor, if it takes him 3 years to do his work, he cannot deduct the expenses in those 3 years until the product is ready for sale, and that is a major change.

The same with a writer. I am not asking you to comment on this. But I understand, if a writer takes 5 years to write a book, Mr. Chairman, it is a very difficult thing for him to expense things until the fifth year and some revenues are received from the product.

Maybe there was a difficulty in enforcing expense accounts that existed heretofore. It seems to be going through my head that this must have been the case. But somewhere, we have to find a more realistic approach.

DRUG ENFORCEMENT

Senator MIKULSKI. You, obviously, are able to go after the drug kingpins and the drug tycoons. It is interesting to me that it takes 1,400 people from your agency to deal with this.

I am a Senator who believes that drugs corrode, corrupt, and eat up our resources. If we could stop the drug problem, there would be more people who could be doing other kinds of work. But we thank you for the tremendous effort the IRS has made in this area.

ATTRACTION OF PERSONNEL TO FEDERAL SERVICE

The last point I just want to comment, in terms of the attraction of personnel, and this isn't something that you can do anything about. It is something really that the executive branch and the Congress have to work together on. You cannot attract people to Federal service, given the current climate for Federal employees.

My Democratic President, Jimmy Carter, came into office bashing the Federal employees. The current President continued that Carter legacy. When you make the Federal employee the enemy, when you change the rules of the game on retirement, when you make them the butt for balancing the budget, you are not going to attract people.

Now along comes this whole contracting out service. I have a member of my family who is a librarian, who has given 20 years of her life to the Federal Government. I can tell you my relative's kids are not going to come into Federal service because they see that good faithful service doesn't get you anything when you are 50, except maybe a pink slip.

So we are not going to get talented people. We are not even going to get mediocre people because nobody is going to want to come into where pay is uncertain, their pension is uncertain, respect is denied, and there is an uncertainty as to whether or not you will be contracted out.

I think that those are the central issues. If we began to deal with that, respected faithfulness, loyalty, competency, and we put that in the paychecks and in the pension plans, I think that we would do OK. That is just my comment on that. I can see that you have a whole row of people who are ready to advise you, and ready to cheer me on.

PROBLEM RESOLUTION PROGRAM

Second, just a question to where taxpayers turn when they have problems. Senator Domenici and Senator DeConcini asked a lot of my question about taxpayer services.

I won't go through letters here, but I have a constituent who was notified that he owed $4,000 in taxes because his bookkeeper had made an error. Within 4 days, he went down and paid off the $4,000. Within 3 weeks, he had a lien on his house. Then as he began to get it straightened out, he was bounced from person to person to person. I, then, get the calls, my office, my case workers.

My question to you, where you have these things that come unglued, where can the taxpayer turn other than to their Congressperson or Senator?

Last week, between Grove City, Honduras, and you, my case workers were ready to picket me, and they popped the switchboard, by the way.

Mr. GIBBS. Let me give you a narrow answer that is a specific one, and a broader one that is more general.

The narrow one is this. In the 1989 budget that we are asking for, we would have substantial additional funding for our problem resolution or taxpayer ombudsman function in the districts and in the service centers.

This is an area that works in our organization, Senator Mikulski, and I say that not from the IRS standpoint, but we have actually gone out with independent surveys to ask the practitioners and taxpayers. This is the problem fixer in our organization today.

We are attempting to get more funding, and we are also attempting to give them higher visibility in terms of their telephone numbers, their addresses, passing out pamphlets and cards, and so forth, to make people aware of it. When our system doesn't work, their job is, and we recognize as an organization it is important to have someone whose job it is to represent the taxpayer and get the taxpayer's problem solved. That is the narrow answer and the specific one.

The broader one, in my opinion, really comes through everybody in our agency understanding that the taxpayer is a customer, whether you are dealing with him in collection, examination, taxpayer service. Wherever it is, they are still a customer out there.

In terms of the quality and the service programs that we are introducing and bringing down to the organizations with the help of our union, with the help of our executives, and with the help of our employees, these are the messages that we are trying to give throughout the organization. I would like to give you this specific one, in terms of the 1989 budget and one that is a much longer term, but I think every bit as important.

Senator MIKULSKI. Thank you.

What you are saying is that part of your budget request is the beefing up and expanding of the ombudsman.

Mr. GIBBS. That is correct.

INTERNAL REVENUE SERVICE BUILDING CONSOLIDATION

Senator MIKULSKI. My last question. You talked about the role of the computer in your agency. I understand you need a new computer center. Is that correct? Could you tell us what you need, when you need it, and what you have done to get it; and will Prince Georges County be able to compete for it? [Laughter.]

Mr. GIBBS. I think, from the standpoint of what you are referring to, it is the issue with respect to the consolidation of our offices here in the Washington, DC, area.

Senator MIKULSKI. That is correct.

Mr. GIBBS. We are currently, in a number of different offices—honestly, I don't believe that it relates specifically to our computer capability, although certainly the offices that we will be looking for will be much more high-tech offices because more and more of our organization, including our national office, is dependent upon hardware and software with respect to computer systems.

At the present time our building consolidation proposal is over in the Office of Management and Budget, and we are discussing with them what our needs are, what the proposal is, and so forth. When that comes out of the Office of Management and Budget, with the cooperation of the General Services Administration, we then plan to go forward, taking a look at sites throughout the metroplex to determine where it would be appropriate from the standpoint of the consolidation.

Senator MIKULSKI. When do you think you will hear from OMB?

Mr. GIBBS. I do not know. I was asked this previously.

Senator MIKULSKI. Is there an urgency about it, is this something that can wait until 1990?

Mr. GIBBS. There is an urgency in this sense. We are in a number of different places, and it obviously makes it much less efficient and much more difficult from the standpoint of the functioning of our overall national office.

The other thing is that with the growth in resources that you have been good enough to give us, we really need to provide appropriate space and facilities for the people in order to be able to use the resources effectively in terms of what we are given. It is something that we are pushing. I am hopeful that will be approved within a matter of a couple of months.

Senator MIKULSKI. Please keep me posted on that. Again, what we are asking for is a regionwide competition and a level playing field, because sometimes it is tilted. We know a lot of people want to be downtown and close to the White House, and for something like this, it is really not necessary.

Mr. GIBBS. We certainly will share our specifications with you as soon as we are able to do so.

Senator MIKULSKI. Thank you.

Thank you, Mr. Chairman.

CLOSING REMARKS

Senator DECONCINI. Mr. Commissioner, and the people who are with you, you can understand the interest in this subject matter. I think we could go on for much longer. We might ask that you come back. We will see what our time is, and how that fits in your schedule, but this is as much as we will do today. We appreciate the time. If we do ask you to come back, it will be a little bit more informal, and we won't have to do all of the preparation. From the standpoint of our Appropriation Committee purposes, preparing our mark, this will suffice. We thank you for your indulgence.

RECRUITMENT SITUATION RELATED TO ADDITIONAL RESOURCES

Senator DOMENICI. Mr. Chairman, could I just make one observation?

Mr. Commissioner, while I have been a little bit critical of the tax gap and the constant notion around that all we have to do is collect from those who are not paying, and we will solve our deficit problem, I really think this committee ought to know, from your human resources people and your professional people, just how bad the situation is out there with reference to recruiting.

I don't think you can just say, we are doing as well as others. I think we really ought to know if there is a major problem. We are putting huge amounts of money and assuming that you are going to go out there and do two things—fill some slots and that they are going to be pretty qualified people.

If you really are not competitive, and you are losing out, and feel that you are doing everything you can to promote on campuses, which I urge you do, promote early because kids are looking for jobs. Even in their junior and sophomore years, they are looking for areas to focus so they are assured of jobs.

I think we have to know, to see if we are whistling Dixie here or not, whether you are really going to be able to fill all these niches with good people.

Mr. GIBBS. Senator, I will be glad to provide that to you.

Let me just say this. I think what we are saying, and I think the facts will bear us out, while it is a challenge, it is a challenge that we are meeting. Where we are coming from as an agency, in order to make our tax system work, is to try to provide the assistance for people who are attempting to comply with their tax obligations.

We are also trying to simply say to the Congress that as you face the very difficult job you have of attempting to deal with increasing revenues to address the deficit problems that we are dealing with as a Nation, we will also try to provide the wherewithal as an agency to give you an alternative before you have to raise the taxes on people who are already paying their fair share by new taxes or greater tax rates, of attempting to do the things that we can do as an agency to collect the tax from those who are not complying with the obligations that are already on the books.

Senator DOMENICI. Thank you, Mr. Chairman.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Thank you, Commissioner. Thank you, ladies and gentlemen.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

Fiscal Year 1989 Budget Increase

SEN. DeCONCINI: The Martinsburg, West Virginia Internal Revenue Service Computer Center is a valuable resource. The fiscal year 1989 budget request is $28,867,000 and 692 positions, an increase over fiscal year 1988 appropriations to date on $1,682,000 and 20 positions.

•What are the long-range plans to expand this facility and what are the significant milestone events leading to completion of that expansion?

MR. GIBBS: We have not finalized our long-range plans for the National Computer Center (NCC). Consequently, milestones have not been established for future expansion at NCC.

Expansion of NCC will be affected by two studies which are underway as part of the Tax Systems Redesign (TSR). These studies will focus on two major areas of concern: 1) NCC staffing requirements; and, 2) computer hardware (mainframes, storage devices, etc.) and related facilities requirements. These studies should be completed in the next 12 to 18 months.

The Service is committed to fully utilizing NCC as a "corporate" site for tax data as part of the TSR. The modifications required to meet that role will depend upon the outcome of the aforementioned studies and the final architecture of TSR.

IRS / Salaries and Expenses: FY 1988 Travel Increase

SEN. DECONCINI: I notice that you intend to request a reprogramming of about $1 million for more travel in fiscal year 1988, under Salaries & Expenses. In view of the clear Committee signal last year for agencies to cut -- not increase -- travel, why should we approve this effort to spend more on travel in your S&E activities this year?

MR. GIBBS: The Internal Revenue Service has not requested a significant increase in staffing levels in the Salaries and Expenses appropriation in several years. However, the needs for National Office travel and transportation funding remain high for several reasons: oversight of projects, initiatives, and pilots that have Servicewide significance, reliance on task forces composed of skilled and experienced field personnel that are funded by the National Office, significant increases in personnel relocation costs, and commitments to greater quality through implementation of quality improvement teams.

Although the Service is proposing to transfer increased travel and transportation resources into this account, I want to emphasize that the Service, as a whole, has proposed reductions to travel and transportation funds exceeding $18 million.

IRS / Salaries and Expenses: Reprogramming Request

SEN. DECONCINI: Besides your proposed reprogramming of $1 million for more travel in fiscal 1988, you are proposing a number of other reprogrammings that change substantially, your original FY 1988 spending plan under the President's budget for FY 1988. You want to shift over $4 million into 'other services'. You want to shift $1.8 million into equipment. And you want to increase your printing and reproduction budget nearly five fold. Most of the money would come out of 'personal services' budgets. Can you explain these reprogrammings and tell us when we can expect to receive your letter requesting approval of this reprogramming?

MR. GIBBS: When the Service began the process of translating our approved budget resources into a set of operating budgets for our thirty-five financial plan managers, adjustments needed to be made to convert a budget that was primarily formulated in the summer of 1986 to a document that accurately reflected the needs of the present. This included the need to strike a balance between our available levels of personnel compensation and non-staff support funds.

Funds were transferred to 'other services' in order to provide for the alterations to space that are needed in order to improve our ability to efficiently use a limited amount of office space. Also, additional funds were needed to cover the costs of conducting the Service's research and development efforts and to provide support funds for other management initiatives.

Additional funds were transferred into printing to cover deficiencies in our ability to provide training materials and internal administrative forms and documents in sufficient quantities to keep up with Servicewide staff increases. In past years, general reductions to our support funding levels eroded the printing budget.

Additional equipment funds were required in conjunction with our space efficiency efforts and to provide funding for various productivity enhancement pilot projects.

IMPEDIMENTS to RECRUITMENT of IRS PERSONNEL

SEN. DeCONCINI: Many of the additional IRS resources authorized for fiscal year 1987 and 1988 were related to a revenue initiative whose purpose was to enable IRS to do more audits, thus increasing tax returns. In commenting on a GAO report on IRS' phase of the initiative (GAO/GGD-88-16, December 2, 1987), IRS said that delays in the appropriations process present a major impediment to the careful planning and managing of resources.

If the prime recruiting season for June graduates is around February and appropriations or continuing resolutions are historically enacted by then, how does the appropriation process impede recruiting?

Mr. GIBBS: The appropriation process as currently structured does not impede the recruitment of normal employee turnover actions. A problem can arise, however, when increased appropriations are enacted after the college hiring cycle ends.

Given the type of caliber of employee we seek, the competition we face is very fierce. A delay of a few months places a major impediment in the Service's ability to attract the greatest number of highly qualified candidates who can be developed into well-rounded, professional employees. We firmly believe employment as a tax professional is an occupation which can be filled, provided that sufficient time is allowed to recruit, hire and train new employees.

IRS: Processing Tax Returns: Computer Services/Savings to be Realized

SEN. DeCONCINI: How much is in your total budget for Tax System Redesign; when will you complete a cost benefit study of the system; and what would be the effect on your operations if we were to cut back these requests and slow down the spending on this costly program?

MR. GIBBS: The total budget for Tax System Redesign is 587 average positions and $92 million. This includes funding for Mission Support, Automated Underreporter Program, Digital Image/Optical Disk Storage System, Long-Term Redesign of the Tax Administration System, and Electronic Filing System. Responsibility for Electronic Filing System was transferred to Taxpayer Service and Returns Processing, effective fiscal year 1988.

The most obvious impact of slowing down the funding for these initiatives is delaying implementation of the TSR interim and target architectures. The amount of delay (months, years) could not be accurately predicted unless the size of the cuts were known. Some specific impacts include:

- Cuts in funding for prototyping and systems modeling, which would enable IRS to make more informed decisions for subsequent procurement actions, would result in increased risk, reduced quality, lower user satisfaction and delayed project implementation.

- Staff year cuts would significantly affect our ability to design, develop, and implement new systems. These systems would provide increased access to data which is more current and complete than the data in the present system, resulting in the following benefits:

  - improved service to taxpayers and employees;
  - improved quality of data input and data bases;
  - faster resolution of cases;
  - capacity relief for current systems.

These benefits would be reduced or eliminated based on the level of funding cuts.

- Delay of funding for these initiatives may in fact require the IRS to request significant funding for replacement or maintenance of current tax administration systems. This would include replacement of existing computer systems in the Service Centers and the National Computer Center. These replacements would be necessary to address system capacity and aging issues (end of system useful life). These replacements would require significant funding without providing significant benefits.

Both the cost/benefit analyses and design selection for the target architecture should be completed in later 1989. We are costing the current system in units of measure that can be used as a basis for comparison when evaluating design alternatives. Candidate architectural options for the redesign are being developed and IRS will select the two or three best options for detailed cost/benefit analysis. Final selection of the redesign architecture will be based on the cost/benefit study and important technical factors. Specific systems engineering to identify projects for implementation of the selected architecture will be conducted in the 1990-1991 time frame.

SEN. DeCONCINI: What steps have you taken to make absolutely sure that your strategies for the Tax System Redesign are clearly tied to your basic missions and are focused on improving IRS performance?

MR. GIBBS: To make absolutely sure that the strategies for the Tax System Redesign are clearly tied to the Service's basic missions and are focused on improving IRS performance, the Service has developed a Strategic Business Plan (SBP). The SBP establishes an exhaustive set of long-range objectives and strategies for all IRS programs, and outlines, in some detail, the framework for accomplishing the Service's Mission. In addition to developing the Strategic Business Plan, the Service has taken the following steps:

- To ensure that all service center processing initiatives were integrated and harmoniously orchestrated, representatives from IRS functional areas and experts from outside the Service formed an Input Processing Integration Task Force to review, analyze and develop an integrated timeline for all service center processing initiatives.

- An Input Processing Users Group is being established to independently review requirements and verify capabilities as they relate to users' needs.

- Members of the IRS Executive Conference will function as an internal Blue Ribbon Panel on Information Systems Development.

IRS will also include input from key segments of the public. Interested groups include:

- Tax practitioners will be represented by the Commissioner's Advisory Group (CAG).

- Individual taxpayers will be represented by the Office of the Taxpayer Ombudsman.

- The vendor community will be provided opportunity for comment through

Information Systems Development (ISD) industry briefings.

- ISD will work closely with state and local tax agencies, individually and through the National Association of Tax Administrators (NATA), to ensure close coordination of requirements for information exchange.

I.R.S.: FY 1989 Budget for Drug Enforcement

On page 16 of your statement, you indicate that the I.R.S. is making a major contribution to our drug enforcement effort, including Operation Alliance. I am also well aware of the contribution you are making with Customs in the area of financial investigations of organized crime and drug trafficking groups.

SEN. DeCONCINI: Give us a bit more detail as to the number of personnel and the amount of money you will be putting into drug enforcement activities in fiscal 1989 and particularly into Operation Alliance along the southwest border.

MR. GIBBS: We expect to devote 1530 average positions and $71.9 million to drug enforcement in the 1989 budget. We intend to commit 111 staff years specifically to Operation Alliance in fiscal 1989.

Collection

SEN. DECONCINI: **The amount of delinquent taxes owed the federal government has steadily grown during the last few years. IRS statistics show that at the end of fiscal year 1987 the amount of accounts receivable totaled $53.6 billion, a 12.6 percent increase over the prior year. Collections of delinquent taxes have also increased steadily. In fiscal year 1987, IRS collected $22.8 billion in delinquent taxes, an increase of 16 percent over the prior year. IRS' budget submission estimates that $25 billion will be collected in fiscal year 1988.**

Do you anticipate any reduction in the accounts receivable inventory during fiscal year 1988 or do you expect this figure to continue to grow?

MR. GIBBS: Because the number and amount of new accounts receivable will continue to grow, we estimate that the accounts receivable dollar inventory will grow to $59 billion at the end of fiscal year 1988.

SEN. DECONCINI: What level of additional resources could be assimilated into IRS during fiscal year 1989 and what would that level of funding achieve in terms of revenue yield over and above the $25 billion projected for next year? Tell us briefly now and break that down in some detail for the record.

MR. GIBBS: In FY 1989, the IRS could add an additional 533 average positions to the Accounts Receivable program and those functions which support it. These positions would cost approximately $22.3 million and produce an additional $94 million in FY 1989. The yield to cost ratio of these positions would be 4.2 to 1.

IRS Tax Gap

SEN. DeCONCINI: One of the ongoing debates in town is whether or not taxpayer service enhancements actually yield additional tax revenues to the Treasury. It has been well-established within this Administration and the Congress that your enforcement activities do generate more revenues when more money is put into those programs.
Q: Have you done any modeling to special studies to determine what, if any, additional revenues can be brought into the Treasury by beefing up taxpayer service programs? If so, what have you found?

MR. GIBBS: At present we are conducting several studies which will help us determine the direct revenue effects and/or the indirect effects on voluntary compliance of IRS Taxpayer Service Programs (TPS). Recently, IRS attempted to analyze the value of TPS. We roughly estimated that a direct loss of nearly $1.3 billion would have been sustained in the absence of TPS in 1986. The results of the studies which are now in progress should give us better estimates of the impact of TPS.

Two of the studies in progress are: a survey of taxpayers who contact TPS with emphasis on the uses they plan to make of the information they received; and a study of a series of questions added to the 1985 individual taxpayer compliance measurement program which will help determine whether taxpayers who contact TPS are likely to make fewer/smaller errors on their returns. A third, controlled "laboratory" experiment to determine the effect of availability of toll-free telephone and walk-in assistance on tax return preparation, is expected to yield results by December 1988.

Taxpayer Service: Improving Walk In Service Facilities

Sen. DeConcini: Is any consideration being given to enhancing the public's confidence in IRS by upgrading the Walk-in offices. Making them more accessible, improving their appearance, and where necessary expanding their space.

Mr. Gibbs: Our goal has been and continues to be that walk-in areas be attractively designed, neat, well equipped and reflect a concern for efficiency and the taxpayer's comfort.

We promote enhancements in the walk-in area on a continuous basis, particularly at the local level, assessing the needs of the maximum number of taxpayers and expanding the offices and types of service we provide accordingly.

The space, appearance and location of our offices will continue to be an important consideration in providing efficient quality service to all taxpayers.

Taxpayer Service: Improving Walk-In Service Facilities

Sen. DeConcini: What level of funding have you set aside in the fiscal year 1989 budget for improvement of IRS walk in taxpayer service?

Mr. Gibbs: Specific funding at a national level is not designated for improvement of walk-in facilities. Each local office evaluates their needs in light of the funds they have available and the priority they establish for competing needs. However, all sites are aware of our commitment to improve the quality service we provide to taxpayers including the physical appearance and accessibility of our offices.

EXAMINATIONS AND APPEALS: TAX REFORM ACT EFFECT ON BUDGET ESTIMATES

SENATOR DECONCINI: The Tax Reform Act of 1986 contains numerous changes, such as those to deductions, credits, and exemptions, that will change the nature of filed returns and that could have a major impact on IRS' examination program. IRS' examination budget for fiscal year 1989, however, includes the statement that all yield estimates are based on "historical data bases and do not include the effects of the Tax Reform Act of 1986."

Considering the very real possibility that the Tax Reform Act of 1986 will significantly affect the nature and scope of IRS' examination program, how can this Committee and the Congress rely on yield estimates that do not recognize that effect?

MR. GIBBS: Very few Tax Year 1987 (the first year of significant Tax Reform Act impact) returns will be closed in FY 1989. Based on historical trends, 95% of yield on returns closed in FY 1989 will be Tax Year 1986 or earlier. Therefore, even though the Tax Reform Act (TRA) will affect examination programs in FY 1989, it will have little impact on yield estimates for FY 1989. We have adjusted our discriminant function (DIF) selection system for processing year 1988 (Tax Year 1987) to take into consideration TRA provisions and their effect on examination programs. Also, our FY

1990 Budget Submission will begin to reflect the effect of TRA on our yield estimates.

SENATOR DECONCINI: Faced with the massive changes associated with the Tax Reform Act, how relevant are historical data bases?

MR. GIBBS: As we have already noted, historical data bases are still relevant. Also, we have realigned our Taxpayer Compliance Measurement Program (TCMP) data base to reflect TRA provisions. From this data we developed new DIF formulas reflecting TRA. Of course, we cannot anticipate the audit potential of changes in taxpayer behavior on returns which have yet to be filed.

EXAMINATION AND APPEALS: EXAM OF TAX RETURN ESTIMATES

SENATOR DECONCINI: In its budget for fiscal year 1987, IRS estimated that it would be able to examine 1.7 million tax returns and generate about $15.7 billion in recommended additional tax. According to its budget for fiscal year 1989, however, IRS only examined 1.3 million returns (about 24 percent less than estimated); yet IRS realized $19.4 billion in recommended additional tax (about 24 percent more than expected). The figures for fiscal year 1988 seem to be headed in the same direction.

What is IRS' explanation for the above fluctuations?

MR. GIBBS: The FY 1987 actual results totalled $19.8 billion in revenue, exceeding our original estimate by $4 billion. We continue to pursue a strategy of examining the most non-compliant returns. These returns are more difficult and time-consuming to examine. This results in fewer examinations but greater revenue. Also, yield from large corporations and Windfall Profits Tax cases were much higher than anticipated in FY

1987, $2.2 billion greater than projected. In addition, we have had to set up special units to control TEFRA tax shelter cases. These cases take much longer to close, due to the requirements of the law and regulations, than we originally anticipated.

SENATOR DECONCINI: Faced with such wide fluctuations, how can this Committee and the Congress rely on IRS' budget estimates?

MR. GIBBS: Prior to 1987, Examination coverage levels were very close to predictions, and yield has always been achieved or exceeded. For the reasons discussed previously, FY 1987 produced some unusual conditions, compounded by a substantial increase in staffing and training. Our predictions are made 2 years before the fiscal year closes. This often means we are operating in a different environment than we had anticipated. We update our data annually, based on our latest operating results to take these changes into account. This becomes the basis for our future predictions. However, the effect of changes such as the half dozen or so significant tax law changes in the last 9 or 10 years can diminish our ability to accurately predict revenue until we gain experience operating under those laws, and are able to predict their impact on us.

EXAMINATION AND APPEALS: AUDIT COVERAGE

SENATOR DECONCINI: One of the intended benefits of the revenue initiative was to increase audit coverage and thus help to reverse the decline in voluntary compliance and the increase in the tax gap. In its budget for fiscal year 1987, the first year of that initiative, IRS estimated an increasein audit coverage from 1.14 percent in 1986 to 1.42 percent in 1987. A continuing increase was forecast in the budget for 1988 in which

IRS revised its 1987 estimate to 1.44 percent and showed an estimate of 1.61 percent for 1988. In its budget for fiscal year 1989, however, after 2 years of the revenue initiative, IRS is saying that it only achieved a 1.10 percent coverage in 1987 and is only expecting that coverage to increase to 1.19 in 1988 and 1.27 in 1989.

Why has IRS failed to increase audit coverage to the levels anticipated in earlier budget requests?

MR. GIBBS: Beginning with FY 1987, we received an increase in Examination staffing with the onset of the multi-year Revenue Initiative. Although we have overrealized revenue from our initial projections, we have underrealized coverage. The number of examinations in the next few years will not increase as rapidly as initially anticipated for several reasons:

* Filed returns continue to grow more complex requiring greater time to examine. In addition, our coverage is much greater in the more difficult higher income classes.

* Our commitment to quality in all our operations means we are taking the time to do things right.

* Our staffing growth involves revenue agents who audit relatively few returns but produce high yield.

* The complexity and administration of the TEFRA laws and provisions as they apply to tax shelters results in a steady, but slower closure of these cases than we had originally anticipated. We currently have approximately 300,000 TEFRA Tax Shelter returns in the examination stream. These will close, but not as quickly as we had assumed.

SENATOR DECONCINI: IRS' initial estimate of 1.42 percent audit coverage in 1987 was based on an estimated examination staffing level of 32,484 positions, including 15,866 revenue agent positions. The current estimate of 1.27 percent coverage in 1989 is based on an estimated staffing level of 33,418 total positions and 16,803 agent positions.

How does the lower estimate of audit coverage mesh with the estimated increase in staff?

MR. GIBBS: Actual returns examined have not kept pace with our estimates for the reasons cited previously:

- Auditing more complex returns which produce higher revenue but lower coverage.
- TEFRA Tax Shelter returns are taking much longer to close than originally anticipated.
- Also it is difficult to compare coverage between years. Given the same number of examinations, an increase in tax return filings results in a lower coverage level, and
- filings have increased especially in the more complex classes where we concentrate our resources.

In light of this, we have revised our estimates based on our latest experience.

SENATOR DECONCINI: How many positions does IRS now estimate it would need to achieve the 1.42 percent coverage originally estimated for 1987?

MR. GIBBS: To achieve the 1.42% coverage in FY 1989, and examining the most abusive returns, the IRS would require approximately 4000 average positions over the current FY 1989 budget level. However, this increase would exceed our ability to recruit, train and deploy district personnel in one year. Our maximum assimilation level for district Examination is 2,500 average positions annually.

INTERAPPROPRIATION TRANSFERS

SEN. DECONCINI: You are planning a major interappropriation transfer in fiscal year 1989 under your Processing Tax Returns activity. You plan to shift 786 positions and nearly $51 million out of this account, into other accounts, for a variety of reasons. Why are you making such a wholesale shift of resources between accounts in fiscal 1989? Doesn't this tell the Committee that your mix of resources and priorities were not well-thought out last year? What has changed so dramatically since last year to warrant such a large transfer of resources?

MR. GIBBS: As the Service began developing its fiscal year 1989 budget, it became increasingly apparent that additional resources for fiscal year 1988 were necessary to perform tax processing functions in our service centers. These additional resources became necessary to enable service center managers to implement quality initiatives, provide additional training, increase management oversight and computer room staffing, strengthen control of data from the point of receipt to posting to the master file, and maintain quality in initial processing, thereby preventing corrections in later processing stages. Resources were also found to be necessary to handle one time additional tax processing workload associated with implementation of the Tax Reform Act of 1986.

The service was directed by the Office of Management and Budget to divert excess retirement funds ($7 million) and 1,860 average positions ($68 million) in fiscal year 1988 from Examination and Collection programs to cover fiscal year 1988 tax processing program deficiencies. This is consistent with the revenue targets for fiscal year 1988 as agreed to in the bi-partisan summit agreement. As the effects of tax reform workload diminish in fiscal year 1989 and increases for the tax processing activity are considered, $30 million is being returned to the examination program. Redirection of FERS funds ($19 million) and space rental funding realignment ($2.3 million) account for the balance of the $51 million transfer. Under the reallocations proposed for both FY 1988 and FY 1989, Treasury fully expects that total IRS direct enforcement activities, including all revenue initiatives, will result in sufficient revenue to meet the targets in the Summit Agreement.

Automated Collection System and Integrated Collection System

SEN. DECONCINI: During last year's budget hearing, IRS said that it planned to merge the Automated Collection System with the Integrated Collection System during 1988. According to IRS, this action was being taken to help computerize collections and enable IRS to tie all its collection activities together. In fiscal year 1988 about $66 million was appropriated for the Automated Collection System and $25 million for the Integrated Collection System. In its fiscal 1989 budget IRS is requesting $66 million to operate and maintain the Automated Collection System and $36 million to operate and maintain the Integrated Collection System.

Since you intend to merge the two systems in 1988, why are you requesting funds to continue operating and maintaining the Automated Collection System in fiscal 1989?

MR. GIBBS: We will not merge the Integrated Collection System (ICS) and the Automated Collection System (ACS) until FY 1991. We are requesting $66 million to operate and maintain the present Automated Collection System.

SEN. DECONCINI: How much additional revenue will be realized as a result of this project during fiscal year 1988?

MR. GIBBS: The Integrated Collection System is being developed. We will not realize any revenue from ICS in fiscal year 1988.

SEN. DECONCINI: What affect did the integration effort have in reducing the inventory of collection cases and accounts receivable balances during fiscal year 1988?

MR. GIBBS: Because ICS is still being developed, it has not had any effect on collection inventory or accounts receivable balances in FY 1988.

Electronic Filing

Sen. DeConcini: If we approve this increase in fiscal year 1989, when can we expect to see savings in the IRS budget in terms of both dollars and staffing?

Mr. Gibbs: Savings, in terms of cost avoidance and other benefits, take place immediately. Net savings, in terms of the electronic filing program cannot take place until start up costs have been met and there are sufficient volumes of returns to offset the operating costs. The possibility of decreasing budget levels in future years would be dependent on other factors also, such as the growth in workload. What will occur is a significant reduction in costs from what they would have been without electronic filing.

Our workload will continue to include an increasing variety and number of returns and documents to process. Much of this is attributable to normal population growth and a vital economy. Another aspect of our mission is that it has increasingly become a "rush hour" business, with larger and later workload at about half the cost of the conventional system. At the same time, electronic filing will also help ease the negative economic impact of the workload peaks.

Sen. DeConcini: In what fiscal year does IRS expect electronic filing's benefits to exceed the program's costs?

Mr. Gibbs: Based on our present projections, we anticipate that benefits will exceed costs in fiscal year 1992.

Assessments vs. Actual Collections

SEN. DECONCINI: In your budget justifications, you estimate additional assessments of $9 billion from your Delinquent Return Program; $103 million from your Special Compliance Program; and $8 million from your Returns Compliance Program. But you do not say how much of these additional assessments you actually intend to COLLECT in fiscal year 1989. Can you tell us now and also tell us what the obstacles are to collection of these assessments?

MR. GIBBS: Collections from delinquent return assessments in fiscal year 1989 will be $3.8 billion. Ultimately, we will collect $7.1 billion from assessments made in 1989.

There are several reasons why we cannot collect a delinquent return assessment in full when we secure the return or make the assessment. In many cases, taxpayers do not file their returns because they are unable to pay the taxes due in full. When we secure the return, the taxpayer still cannot pay and the amount due becomes an account receivable. In other cases, such as those in our Tracking Receipts and Currency Exchange (TRACE) Program, taxpayers attempt to avoid paying taxes by using offshore tax havens or shell companies to conceal assets and income. Many of these cases are resolved through time consuming distraint actions. In all of our delinquent return activities, collection employees are required to take action to secure full payment when the return is secured. We continually examine the Delinquent Returns program to find ways to improve the amount of taxes collected from those assessments.

In addition to the amount of tax collected, another goal of the delinquent returns program is to prevent future noncompliance. Collection employees who contact taxpayers who have not filed advise the taxpayer of their filing and paying requirements and encourage taxpayers to comply in the future. Through our Employment Tax Examination Program (ETEP) we also ensure that employers are paying the correct amount of employment taxes. In addition to assessing the correct liability, our enforcement presence encourages taxpayers to report correctly in the future.

Problem Resolution Program

SEN. DeCONCINI: IRS' fiscal year 1989 budget includes an increase of 46 problem resolution positions. A December 1987 GAO report on problem activities (GAO/GGD-88-12) does not mention a need for increased staffing but addresses a need for staff training and alternative ways of handling problems referred to problem resolution.

Did IRS consider GAO's observations and suggestions in coming up with its fiscal year 1989 request for additional problem resolution positions?

MR. GIBBS: We did not consider the recommendations in the formulation of our FY 1989 budget request because the budget process was completed long before the GAO report was received. However, we are currently reviewing the entire management information system including our case coding procedure, which is used for systemic problem analysis purposes. We will consider GOA's recommendations that time.

We did consider the need to enhance our systemic problem analysis function based on the need at the time.

Processing Tax Returns: ADP Disaster Recovery Plan

SEN. DeCONCINI: You are requesting $2.9 million and 29 new slots to fund a complete and comprehensive disaster recovery plan that will provide for protection against the loss of a site due to a natural disaster or sabotage. What have you had in place before FY 1989 to cover this contingency and why, all of a sudden, do you need to put one in place? Can you share any information with us today that justifies the need for such a plan.

MR. GIBBS: The Service is mandated by the Office of Management and Budget (OMB) (Circular A-130, Management of Federal Information Resources dated December 15, 1985) to create and maintain disaster recovery plans for all of its information systems. These plans must provide reasonable continuity of operations in case a disaster renders one of IRS' information systems inoperable. IRS has been severely criticized by the General Accounting Office (GAO) (Computer Security Report dated November 1985) for not having a recovery plan in place. Specifically, the Service:

- o Has no certified and tested plans
- o Has no backup processing sites
- o Remains vulnerable to prolonged disruptions

IRS continues to become increasingly dependent upon automated systems. Any major loss or damage to its computer assets (equipment, software, and data) would limit IRS' ability to carry out its mission. If a major facility was rendered inoperable, it could result in millions of dollars of interest being paid on late refunds to taxpayers, millions of dollars in overtime payments to answer taxpayer inquiries, and impair IRS'ability to generate correct notices and related legal documents.

Without a plan, the Service remains at risk. The $2.9 million and 29 new slots will be used to implement the Service's Disaster Recovery Plan.

IRS Processing Tax Returns: A-76 Savings

SEN. DeCONCINI: Your justifications show that you will be able to save $4,983,000 and 587 average positions based on A-76 program reviews.

Q: What specific A-76 initiatives will be taken in fiscal 1989 to allow you to achieve those kinds of savings? Be specific. Or is this just another OMB reduction looking for explanation?

MR. GIBBS: The savings for fiscal year 1989 were computed by OMB based on a goal for

IRS to study the cost effectiveness of 1,363 FTE during FY 1988. This goal was based on the Department's FY 1987 Management Plan which stated that the IRS's objective was to complete 326 A-76 studies covering 5,769 FTE by the end of FY 1989. During the budget formulation process for the FY 1988 budget OMB and the Department agreed that for FY 1988 the study goal would be 1,363 FTE. This goal was specified in the President's 1988 Management Report sent to Congress in March 1987. In order to encourage agencies to accelerate the achievement of the potential savings in commercial activities from competition, the President issued Executive Order 12615 in November 1987. As an incentive to agencies to look for savings the E.O. establishes a sharing arrangement whereby the agency may keep up to 50 percent of the estimated savings, but the other 50 percent is used to reduce the budget. The budget reduction is determined in the following manner. Since 1981, over 72,000 FTE have been subject to competition Government-wide under A-76 with an average dollar savings of $9,666 per FTE studied and an FTE reduction of over 60 percent. For budget reduction purposes OMB uses a rate of $4,875 per FTE scheduled for study, 50.4 percent of the Government-wide average and an FTE reduction rate of 43 percent of the FTE to be studied. However, the E.O. allows the agencies to retain an additional 25 percent of the expected first year budget savings for use as incentive compensation to reward employees covered by the studies for their productivity efforts. This employee bonus provision reduces the budgeted savings for FY 1989 to $3,656 per FTE scheduled for study for a total of $4,983,000 (1,363 FTE x $3,656). Out year budget baselines are reduced by the full $4,875 per FTE. The FTE reduction at 43 percent of the 1,367 FTE scheduled for study equates to a reduction of 587 FTE. Any savings we achieve above the target is our "profit" incentive to cover unfunded priority work. If we meet our study goals, but do not achieve the budgeted savings OMB will seek to restore the difference between actual savings and budgeted savings.

INCREASE FOR RESTRUCTURING OF SPACE RENTAL

SEN. DECONCINI: Almost one-third of your proposed increase in Salaries and Expenses next year is due to a "restructuring of GSA space rental funding". This item accounts for $2,336,000.

Can you explain what this increase is for and what would happen if we denied the request in fiscal 1989?

MR. GIBBS: Periodically the Service reviews the GSA space rental charges being assessed to each of the Service's appropriations to ensure that the proper allocation of charges is being made. Proposals to realign funding are then made accordingly. Since the budget line item under question is not an overall increase, but merely a transfer, denial of this request would represent a base cut of $2.3 million since we already reflect a decrease of this amount in the Processing Tax Returns appropriation.

GAO Report on Automated Collection System

SEN. DECONCINI: In its July, 1986 report on the Automated Collection System, GAO apparently identified two problems which affected the handling of delinquent accounts on that system. These problems involved errors in processing and posting tax information and payments, plus the unavailability to ACS personnel of certain taxpayer information in IRS files.

What specific actions have you taken or do you intend to take to resolve or avoid these problems before cases enter the collection process?

MR. GIBBS: In the GAO survey, 9.6% of the balance due accounts were determined to be not due (or unresolved at the time of completion of the survey) because of errors in processing and posting. I am pleased to report that now only 4% of cases resolved by ACS fall in this category.

Several actions caused this improvement: The redesigned Federal Tax

Deposit card; better control of taxpayer correspondence; improvements in the quality of posting payments; and, an enhanced notice review system that identifies cases that may need adjustment before they are sent to the taxpayer.

We are converting more balance due notices to laser printed versions which can be optically scanned. This will improve processing, posting and resolution of cases before they reach ACS. In addition, we are studying methods to automate acknowledgments of taxpayer correspondence and prevent additional notices on accounts which may need adjustments. We are designing additional studies, including a survey of taxpayers, to help us pinpoint systemic problems so we can correct them.

Collection is also designing software to enable employees to access the Integrated Data Retrieval System (IDRS) from an ACS workstation. This will significantly improve the information available to the employee and the overall quality of the ACS case dispositions.

In the return delinquency program, we have refined our programs to minimize the possibility of identifying as nonfilers those spouses who have filed on joint returns. In addition, ACS employees working individual income tax return cases now have access to up to four years worth of information return data. Previously, only one year's information was available.

Why Increase for International v.s. Employee Plans?

SEN. DECONCINI: Why do you feel that it is of higher priority to examine U.S. taxpayers performing business or residing outside the U.S. than it is to crack down on employee plans and exempt organizations next year?

MR. GIBBS: I do not place a higher priority on the work of our international programs over the work performed on employee plans and exempt organizations. The reason for the larger increase for International is the newness of that organization and a desire to provide needed start up costs for providing improved tax assistance to overseas taxpayers and for the competent authority process. When Employee Plans-Exempt Organization was established in the 1970's it also received special emphasis in being set up.

IRS: General: Inter-appropriation transfers

SEN. DECONCINI: An examination of your justifications shows that you have undertaken extensive, so-called 'inter-appropriation transfers'. One of those -- transferring more money into taxpayer service -- was specifically mandated by the House-Senate conferees, but the rest seem to be IRS-initiated. Can you go over them for us now and tell us how you justify them, in view of our clear mandates for pre-approval of reprogramming and only limited transfer authority? Some of the transfers seem to be excessive.

MR. GIBBS: The Internal Revenue Service took action to transfer surplus retirement funding that was budgeted for the new Federal Employee Retirement System (FERS) to cover the requirement to absorb the cost of the 2% employee pay raise that the Congress approved. In order to accomplish this, funds needed to be transferred between appropriations to match the available resources with the salary needs.

Consistent with the revenue targets of the summit agreement, the Service also took action to divert funds from enforcement efforts to cover anticipated staffing and support needs in the service centers. These needs were due to the requirements of tax reform and our own quality and training efforts. The resulting post-adjustment enforcement levels are fully consistent with the assumptions used for enforcement receipt estimates of the summit agreement.

Finally, the Administration requested the Service to reprogram remaining surplus FERS funds to cover the advance purchase of $46 million in automated data processing funds in FY 1988. The Administration offset this advance purchase by reducing our FY 1989 ADP purchase funding by a similar amount.

IRS/EXAMINATION AND APPEALS: RESULTS OF MORE EXAM RESOURCES

SENATOR DECONCINI: In its budget for fiscal year 1987, IRS estimated that it would be able to audit 120,000 additional returns as a result of increased examination resources provided by the first phase of the revenue initiative and that the additional tax, penalties, and interest ultimately assessed from those audits would amount to $829 million.

How many additional audits did IRS actually accomplish as a result of the increase in resources resulting from the revenue initiative?

MR. GIBBS: As a result of the revenue initiative, we examined almost 52,000 more tax returns in FY 1987. This lower number of actual examinations was due in some measure to underrealization of staff, but primarily due to to the complex nature of the returns being examined. Higher revenue yields, however, were achieved. While we initially estimated $829 million in additional revenue, we exceeded that by $18.5 million.

SENATOR DECONCINI: Based on its actual results, what is IRS' revised estimate as to the amount of tax, penalties, and interest that will ultimately be assessed?

MR. GIBBS: Our revised estimate as to the amount of tax, penalties, and interest that will ultimately be assessed in FY 1987 is $847.5 million, as compared to our initial estimate of $829 million.

SENATOR DECONCINI: Last year, the Congress gave you nearly 1,000 new positions for examinations. How many of those positions do you currently have on board and what are your latest revenue projections for the additional revenues to be realized from last year's examinations enhancement?

MR. GIBBS: We hired over 4,500 revenue agents in the fifteen month period from July 1986 through September 1987. A major portion of this hiring occurred in the last quarter of FY 1987 which, while having little impact on FY 1987 average position realization, has placed us in an excellent position to achieve our FY 1988 examination authorized staffing. The FY 1988 column of the FY 1989 Congressional budget submission included 16,314 revenue agent average positions. Currently, we have 16,719 revenue agents on our rolls.

Our revised estimate as to the amount of tax, penalities, and interest that will ultimately be assessed in FY 1987 is $847.5 million, as compared to our initial estimate of $829 million.

FERS INCREASE

SEN. DeCONCINI: One of your large increases in FY 1989 is an increase of $4,340,000 to respond to a higher required contribution rate and a higher rate of participation in FY 1989 in the new Federal Employee Retirement System, or FERS.

Aren't most agencies finding that their FERS costs have dropped sharply in fiscal 1989 -- not increased? And, why are yours going up so substantially next year?

Mr. GIBBS:	Most agencies, including the Internal Revenue Service, have found that their FERS costs have decreased by a considerable amount. For the IRS, this decrease amounts to $175 million, from $280 million to $105 million for fiscal 1988. Of the $175 million, $20 million was returned to Treasury, based on a change in the method used to compute FERS, and the remainder was reprogrammed within the IRS to cover taxpayer services, the 1988 pay raise, and computer equipment purchases. Our FERS request for fiscal 1989 covers, what we feel, are normal additions to the system, as repriced in fiscal 1988, based on attrition of employees under the Civil Service Retirement System and replacement with new employees under FERS. In addition, we are able to base our request on one year of actual experience.

(Amounts in Millions)

	FY 87	FY 88	FY 89
Original Budget	$117	$280	$120
Revised Budget		$105	
Actuals	$ 63		

AUTOMATED EXAMINATION SYSTEM

SENATOR DECONCINI:	Work on the Automated Examination System began in 1984 and Phase 1 (the equipping of revenue agents with lap-top computers) began in 1986. In the budget request, IRS is requesting $125 million for this project. IRS expects the system, once fully implemented, will result in savings in clerical personnel, overhead cost, and staff years which it plans to reapply to other areas. What is your timetable for completing this project and what has been the progress to date?
MR. GIBBS:	The Automated Examination System (AES) implementation plan is multi-phased. In the first major phase, field

revenue agents were equipped with portable computers and software to provide automated workpapers and computational capabilities. By the end of 1987, 18,000 employees were trained in the use of these new tools. The follow-on phase will be initially implemented in the summer of 1989 with the acquisition of desktop microcomputers supported by office minicomputers. This phase will permit tax auditors and tax examiners to prepare automated workpapers similar to those now used by revenue agents. In addition, greatly enhanced capabilities will exist for operational planning and control, personnel administration and management reporting. Tax and procedural research will be accomplished using portable and desktop microcomputers to access a Servicewide Citator System by 1990. The last phase of the AES involves mainframe systems for unifying the examination process. A total AES is planned for 1993.

SENATOR DECONCINI: Please identify any savings that were realized in fiscal years 1987 and 1988. Into what areas were the savings reapplied and what were the benefits obtained?

MR. GIBBS: We estimate that realized productivity savings of approximately 1.3% for revenue agents in FY 1987. These productivity savings were reapplied to examine additional returns which will generate additional eventual assessments, penalties, and interest of $89 million.

FIVE-YEAR RESOURCE PLAN

SEN. DECONCINI: How does the fiscal year 1989 budget, which provides for an increase of 1,650 average positions over the revised levels for fiscal year 1988, tie into the five-year resource plan?

MR. GIBBS: The five-year resource plan, provided to your committee on

April 2, 1987, addressed the hypothetical allocation of substantially greater resources (an increase of 2,500 to 5,000 average positions in each year) than were in the President's budget at that time. The priorities for adding additional resources were first to provide an 85 percent level of taxpayer service, second to provide balance among functional programs, third to deal with certain compliance problems, and fourth to expand tax enforcement through the continuation of the revenue initiatives within the examination and collection programs.

The proposed budget before your committee provides the 85 percent level of taxpayer service, improves balance among functional programs, and addresses certain compliance programs.

Since the bi-partisan deficit reduction settlement does not contemplate additional revenue initiatives and since the budget as proposed by the President follows the settlement, the increases in tax enforcement included in the five-year plan for the continuation of examination and collection revenue initiatives are not contained in this budget submission.

OBLIGATION OF FISCAL YEAR 1988 APPROPRIATED FUNDS

SEN. DECONCINI: As of March 8, 1988, how much of your fiscal year 1988 appropriation for ADP and information technology has been obligated?

MR. GIBBS: Although we do not maintain ADP project obligation data on a daily basis, our accounting data for the month of February indicates that we have obligated approximately $271 million of the $895 million (31%) in ADP and ADP related funds that are available to us for fiscal year 1988.

SEN. DECONCINI: Do you expect to convert any unobligated fiscal year 1988 funds to no-year funds?

MR. GIBBS: Past experience indicates that there is a high probability that certain ADP projects may not be fully obligated by September 30 and will require no-year status. This is usually due to a number of factors including delays in completing development of a system, in obtaining final approval of the system's architecture, and in selecting a vendor.

In addition, the administration has directed us to use any surplus retirement funds for the advance purchase of ADP projects that may have been contemplated in our FY 1989 ADP plans. To the extent that an acceleration of the procurement process is not feasable, we will have to place these surplus funds into no-year status.

SEN. DECONCINI: If so, which projects will be sources of the converted funds?

MR. GIBBS: At this time, we cannot provide a solid estimate of the ADP projects that may require the use of no-year status. Those projects will become more evident as we head into the second half of the fiscal year.

SEN. DECONCINI: The State of Arizona Deferred Compensation Plan Governing Committee and National Association of Government Deferred Compensation Administrators (NAGDCA) have brought to my attention a problem which involves their Social Security eligible participants. As I understand the problem, the Social Security Administration is unable to determine the appropriate "earnings" level for old age pension benefits given the information SSA receives from the IRS Form W-2. Since that information may include income not properly included in the Social Security pension benefit computation, some recipients may have their Social Security benefits inadvertently reduced without adequate notice as to their rights.

I have also become aware that this issue was presented to the Office of Chief Counsel, Mr. Philip Corn, on July 14, 1987, in person by representatives of the NAGDCA, on July 14, 1987, and again by memorandum to Mr. Ronald L. Moore on July 27, 1987.

Hence, I would appreciate the results of the review of this issue and, if appropriate, any IRS recommendations to resolution.

MR. GIBBS: IRC §3121(a)(5) deals with the FICA taxation of pensions and retirement plans, and, generally, such payments are excluded from "wages" only if paid pursuant to a qualified deferred compensation plan. §3121(a)(5)(E) excepts from wages payments "under or to an exempt governmental deferred compensation plan (as defined in subsection (v)(3)). IRC §3121(v)(3), however, excludes from the definition of an "exempt governmental deferred compensation plan" any plan to which section 457(a) applies. Thus, although payments to a §457 plan may be excluded from gross income, they are includible in wages for FICA purposes when the services are performed or, if later, when there is no longer any substantial risk of forfeiture. The typical "457" plan does not have a substantial risk of forfeiture.

Thus, payments to a §457 plan are subject to FICA taxes when paid. Subsequently, when the payments are made out of the plan, the amount is reported on a Form W-2 as wages, but not as social security wages. No FICA taxes are withheld at that time. A Form W-2 is used rather than a Form W-2P because section 457 plans are treated as nonqualified deferred compensation plans for both FICA and income tax purposes.

When SSA receives a Form W-2 for anyone who is also receiving social security benefits, a letter is sent to the taxpayer indicating he or she may have earnings that may reduce the social security benefits the taxpayer is receiving. A response from the taxpayer will resolve the problem. If taxpayers do not respond to the SSA letter, benefits may be reduced. We understand from SSA that this procedure works well.

We have met several times with representatives of the above-named organizations to discuss this issue. Because resolution of the issue requires cooperation with SSA, we have also met with SSA several times, most recently on April 12, 1988. We suggested revising Form W-2 to indicate that this was a payment under a non-qualified deferred compensation plan. SSA believes this would not resolve the problem because their computer programs do not process this information. SSA is exploring the matter further in connection with a larger problem, i.e., reporting requirements for all deferred compensation agreements. We expect to meet with SSA on this issue in the very near future as soon as it completes its review of the problem.

SEN. DeCONCINI: A number of Arizona cities have brought to my attention a problem they are having with the Service in relation to tax-exempt bonds. The Tax Reform Act of 1986 and the 1987 Reconciliation bill contained a large number to tax law changes, which have required the Service to write a large number of regulations. I recognize that this has placed a great deal of pressure on the IRS.

At the same time, it is very difficult for cities to comply with regulations which have yet to be written. Therefore, I am interested in knowing when the regulations relating to tax-exempt bonds, and specifically arbitrage regulations, will be completed.

I am interested in knowing when the regulations relating to tax-exempt bonds, and specifically arbitrage regulations, will be completed.

MR. GIBBS: Our current schedule for publication of the major tax-exempt bond regulations is:

(1) Arbitrage Rebate (sec. 148)
July, 1988

(2) Private Activity Bonds (sec. 141)
January, 1989

(3) Qualified 501 (c)(3) Bonds (sec. 145)
October, 1988

(4) Bonds for Residential Rental Projects (sec. 142)
October, 1988

(5) Volume Cap (sec. 146)
September, 1988

Electronic Filing

Sen. DeConcini: The IRS is now in its third year of its Electronic Filing Program and you indicate that by 1991, electronic filing is to be available nationwide.

I understand the benefits to the IRS of automation; however, this system means that the individual taxpayer who uses an accountant will be served faster than the taxpayer who does his or her own taxes, either by choice or because he does not have the resources to hire an accountant, I really believe we should be promoting understandable forms and instructions which allow the individual taxpayer to do his or her own taxes and I am concerned about a system which will serve those using an accountant more quickly than those who do their own taxes. Do you have any comments on this?

Mr. Gibbs: The electronic filing of individual income tax returns is not in lieu of our efforts to simplify paper forms and their related instructions. We continue to make every effort to improve our tax returns, and our paper processing systems. The resources devoted to electronic filing do not reduce the resources applied to our other programs.

Also, we are striving to identify and promote other potential filers of electronic returns. Some examples of these sources are employers, unions, banks and universities. Hopefully, these organizations will take returns prepared by the individual taxpayer and file then electronically at little or no cost as a benefit to the employee, member, depositor, etc.

We hope that this alleviates your concerns.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

IRS REVENUE YIELD BREAK-EVEN POINT

SEN. DOMENICI: Last year when the Secretary of the Treasury appeared before this Subcommittee, I asked him the question about when we reach a point of diminishing returns, in terms of the number of IRS enforcement agents we can add to yield additional revenues.

He responded that we are far from the point at which we would reach saturation; that the fiscal year 1988 request on the margin would produce $6 in increased revenue for every $1 spent; that you - the IRS - feel you could add 50 percent more people over the next 10 to 15 years before the theoretical break-even point would be reached.

Is this still the case in terms of the number of people you could take on before you reach a point of diminishing returns?

What increase in revenue for every $1 spent will be produced by your fiscal 1989 request?

MR. GIBBS: As the IRS' fiscal year 1989 request does not include any new revenue initiatives, the Service is essentially in the same position regarding the number of people we could add before we reach saturation as were last year. We might be able to add 50,000 to 60,000 people over the next 10 to 15 years before we reached a break-even point. However, the IRS' ability to absorb and train additional enforcement personnel is limited on an annual basis. Furthermore, the Tax Reform Act is expected to reduce non-compliance and this should be considered in the timing of any future resources. There is no increase in revenue attributable to our fiscal year 1989 request.

Fiscal Year 1989 Budget Increase

SEN. DOMENICI: How much of your fiscal year 1989 requested budget increase is associated with the annualization of staff hired as a result of last year's revenue enhancement initiative?

MR. GIBBS: None of fiscal year 1989 requested budget increase is associated with the annualization of staff. However, there are some costs to maintain current levels such as the pay raise (2%) and advancement of trainees which are required to continue operations. Part of these required increases include funding for last year's revenue initiative.

Fiscal Year 1989 Enhanced Revenue

SEN. DOMENICI: You have proposed no budget increase to further enhance revenues this year -- is that correct? In other words, the additional FY 1989 revenues continued in the President's budget result from last year's increase.

MR. GIBBS: You are correct. All additional FY 1989 revenues contained in the President's budget result from previous revenue initiatives.

SEN. DOMENICI: How many additional people could be assimilated by the IRS in fiscal year 1989 to produce additional revenue? For the record, could you please provide the number of positions you could take on, by appropriation account, and the additional revenues each of those increased staffing levels would produce.

APPROPRIATION	AVG. POS.	AMOUNT	FY 1989 REVENUE
SALARIES AND EXPENSES	---	---	---
PROCESSING TAX RETURNS	186	$ 4.7	$ 19
EXAMINATION AND APPEALS	3,829	$158.9	$ 511
INVESTIGATION, COLLECTION AND TAXPAYER SERVICE	2,827	$123.1	$ 590
IRS TOTAL	6,842	$286.6	$1,120

SEN. DOMENICI:	The President's budget indicates that IRS compliance measures will raise $2.4 billion in new revenues in FY 1988. Why does this estimate differ from that agreed upon in the summit agreement?
MS. KENT:	These amounts, shown in tables such as the one on page 4-13 of the President's Budget, represent an estimate of the effect of the law as enacted, which is in keeping with the specialized format of the table. In assessing the effect of the additional budget authority granted in the Continuing Resolution as enacted, we found that the level and, more importantly, the timing of these outlays would generate the receipts patterns shown in the budget.
SEN. DOMENICI:	What is your understanding of the summit agreement regarding IRS compliance revenue in FY 1989? Did the summit agreement specify that the FY 1989 revenues would result from the FY 1988 appropriation level?
MS. KENT:	The summit agreement was for net compliance revenues of $2.9 billion from the IRS initiatives initially funded in FY 1988. The agreement did not specify that these revenues would result from the FY 1988 appropriation level; however, the totals used in the agreement were estimates based on an assumed continuation of FY 1988 funding levels in FY 1989.
SEN. DOMENICI:	What is the estimate in the President's budget for the FY 1989 effects of IRS compliance? How was this estimate arrived at? Why is it different from the summit agreement?

MS. KENT: Tables such as the one on pages 4-13 of the President's Budget indicate that the Continuing Resolution is expected to raise $3.1 billion ($2.7 billion net) in FY 1989.

While this amount is $.2 billion lower than the summit targets for FY 1989, it is consistent with Treasury's analysis of the timing of outlays as originally conceived for this initiative. Despite the slight difference with the summit targets, Treasury fully expects that total IRS direct enforcement activities, including all revenue initiatives, will result in sufficient revenue to meet the targets in the Summit Agreement.

Question: IRS: Taxpayer Service

Sen. Domenici: You say that you are achieving an 85 percent level of taxpayer service. What level will be achieved next year, given your fiscal year 1989 funding request? Are we talking about direct assistance from the IRS or does this also include assistance through your volunteer programs?

Mr. Gibbs: When we speak of "level of service" we are talking about a measure of the effectiveness of the Service's customer assistance through the toll-free telephone system. Since the toll-free telephone program handles almost 85% of the total number of taxpayers that contact the IRS for tax assistance, the level of service provided through this system is the primary indicator of the overall effectiveness of our programs. The term is not used to describe any other program within Taxpayer Service. The taxpayers we assist through walk-in, correspondence, and other direct IRS programs, as well as the volunteer efforts of the Tax Counseling for the Elderly (TCE) and the Volunteer Income Tax Assistance (VITA) programs are in addition to those taxpayers assisted through the toll-free telephone program.

Our FY 1989 budget request is sufficient to provide an 85% level of service. We are, however, greatly concerned with improving the quality of the assistance we give to the public. We would allocate more resources into training, managerial and quality review, and other program enhancements.

Sen. Domenici: How much are you currently spending on your Taxpayer Information media campaign? How much do you spend on print media? How much do you spend on broadcast media? Does this include T.V. ads?

Mr. Gibbs: For Fiscal Year 1988, the Internal Revenue Service, with assistance from the Advertising Council Inc. and volunteer support from the McCann-Erickson Advertising Agency, developed a Taxpayer Information media campaign at an estimated cost of $1,418,353. This expenditure is only for research, production, reproduction, and distribution of campaign materials. The campaign includes 1988 tax-filing season materials, campaign materials aimed at recruiting volunteers for IRS Taxpayer Education Programs in the late summer, and a taxpayer "Get Ready" awareness campaign in the fall.

The Internal Revenue Service does not pay for advertising in the Print and Broadcast media. The free public service campaign is expected to generate more than $25 million in donated advertising time during FY 1988. Estimated costs for broadcast and print which are paid for by the IRS, including T.V. ads, are attached for your information. Internal Revenue Service will pay only for actual expenditures under its contract with the Advertising Council.

Sen. Domenici: What amount of funding is included in your Fiscal Year 1989 request for the Taxpayer Information media campaign?

Mr. Gibbs: Subject to approval of Fiscal Year 1989 funds, the Internal Revenue Service will again enlist the support of the Advertising Council and the McCann-Erickson Advertising Agency to develop an aggressive Taxpayer

Information media campaign. The estimated cost of the campaign is $1,120,000.

SEN. DOMENICI: How many taxpayers are seeking assistance through your Problem Resolution Program? How many are getting their problems resolved through that program?

MR. GIBBS: In FY 1987, our Problem Resolution Program received 405,397 new cases and resolved 406,862 cases, which included some that were in open inventory at the beginning of the year. For the first quarter of FY 1988, receipts were 95,852 and 94,044 were resolved.

It is not necessary for taxpayers to ask for Problem Resolution assistance. If their problems have not been resolved through our normal channels, taxpayers are referred to Problem Resolution by IRS employees. In FY 1987, 120,865 taxpayers directly asked for Problem Resolution Assistance; the remaining 284,532 cases were referred by IRS employees.

SEN. DOMENICI: What problems has the Taxpayer Ombudsman identified on behalf of taxpayers? What actions have been taken to resolve these problems?

MR. GIBBS: Identifying the causes of problems and representing taxpayers' interests and concerns within the Service have been major responsibilities of both the Taxpayer Ombudsman and field Problem Resolution Officers since the program began in 1977. Over the past ten years, virtually hundreds of problems have been identified through the Problem Resolution Program and corrective actions have been taken to prevent their recurrence.

The Taxpayer Ombudsman, members of his staff, and field Problem Resolution Officers are currently participating in a number of studies and quality improvement projects which have the goals of correcting problems and improving the quality of service we provide to taxpayers. These include a major study of penalties and a quality improvement project aimed at making the notices we send taxpayers easier to understand.

A recent problem identified and resolved by the Taxpayer Ombudsman involves taxpayers who incur bank charges, including overdraft fees, as a result of erroneous IRS levies. Procedures have been established which allow taxpayers to be reimbursed for these charges. Another problem identified by field Problem Resolution personnel involves businesses which submit requests for a new Employer Identification Number (EIN) but do not receive it. Special expedite procedures have now been developed to provide expedite issuance of EINs in such cases. If it has been more than four weeks since the taxpayer submitted the request, the EIN is to be provided within 24 hours of the second request.

IRS PAYROLL PROBLEMS

SENATOR DOMENICI: Will you please update us briefly here on what actions you have taken to correct IRS payroll and accounting problems, what problems still continue, and what actions are planned to resolve these. When can the committee expect to start receiving your written reports on this situation?

MR. GIBBS: As of March 11, 1988, the pay related adjustment inventory was 4,234, all of which are 1988 receipts.

This is a dramatic decrease since May 23, 1987, when we had an ending pay related inventory of approximately 8,400.

The pay related adjustment backlog identified in May 1987 has been totally eliminated. In addition, all pay related adjustments received in 1987 have been processed.

The Service has concentrated efforts to improve the quality of inputs by providing tools and training to our field offices. The quality of inputs impacts on our overall ability to promptly resolve pay problems. For example,

- We have continued to modify user-friendly input screens developed by the Bureau of Engraving and Printing.

- Pilot tests have been successfully completed.

- Screens for twenty of the most common personnel transactions were distributed to our regions.

- The revised personnel/payroll processing training was piloted. All materials have now been printed in final form and have been made available to our field offices.

As required by the Fiscal Year 1988 Appropriations Report, we have provided both Appropriations Committees monthly status reports on our payroll and accounting system. The status report for January and February was provided on March 18, 1988 and the status report for March was provided on March 22, 1988. We will continue to provided these status reports monthly.

IRS: STAFFING

SEN. DOMENICI: The Fiscal Year 1988 funding level provides for 10,000 average positions above fiscal year 1987. Are these positions filled? What is your current staffing level and how many people have you hired as a result of the FY 1988 funds provided? Have all the people hired been trained? What recruiting/ retention problems are you experiencing?

MR. GIBBS: The additional positions authorized in FY 1988 (10,963 including 1,500 additional positions in taxpayer service) have been filled.
On March 12, 1988, we had 132,260 people on board. This compares to 117,453 people on board on March 14, 1987 -- an increase of 14,807 people. After adjusting for seasonal employment, this increase is in line with the 10,963 average positions authorized. Our employees receive basic recruit training

prior to being assigned to their first duty station. For example, new revenue agents receive six months training in basic tax law and accounting. Most of the new agents hired in this fiscal year are now completing basic training. As part of our emphasis on quality, we provide continuing professional education to employees and update and revise training courses and materials.

We do experience employee turnover in all occupations -- accounting, law, computer programming, clerical. Continual recruitment actions -- visiting college campuses, business and secretarial schools, job advertisements, job fairs, etc. -- are required. The Internal Revenue Service is trying to improve the quality of the work place, with child care, fitness centers, etc., to attract and retain qualified employees.

WRITERS AND ARTISTS OVERHEAD

SEN. DOMENICI: Would Treasury support a legislative change to the tax law exempting authors, photographers, and artists from the uniform capitalization rules?

MR. GIBBS: Treasury believes that such a legislative change would be undersirable. We are sympathetic with complaints regarding the complexities and record keeping requirements that these new rules impose. We would support simplification of these rules, such as:

-- allowing the current deduction of a minimum amount of costs per year ($5,000 or $10,000), and

-- providing a fixed number of years over which these costs could be written-off (rather than requiring the use of the "income forecast method" which only allows costs to be written-off as the book or work earns income).

But all taxpayers (including authors and photographers) benefitted from the reduction in tax rates made possible by broadening the tax base in the 1986 Tax Reform Act.

The uniform capitalization rules, in particular, were some of the most important base broadeners in the Tax

Reform Act, raising approximately $35 billion in revenues over the five year budget period.

Thus, we believe it would be inequitable to exempt authors and other select groups from the uniform capitalization rules while not exempting other taxpayers from these rules as well.

IRS Tax Gap

SEN. DOMENICI: Q: What is your current estimate of the tax gap? What do you estimate it will be in fiscal year 1989? What about five years from now?

MR. GIBBS: The gross tax gap for tax year (TY) 1987 is $84.9 billion. We project that it will rise to $92.2 billion in TY 1989. By TY 1992, we project that it will reach $113.7 billion. These estimates refer to the gross tax gap, which is the difference between what is estimated to be owed and what is voluntarily paid. Much of the tax not voluntarily paid is eventually collected with current enforcement measures.

SEN. DOMENICI: Q: What portion of the decline in the tax gap is due to increased IRS enforcement efforts and what is attributable to the changes made by the Tax Reform Act of 1986, which reduces rates and eliminates deductions?

MR. GIBBS: We do not have an estimate of the indirect effect that enforcement efforts have on voluntary compliance or the gross tax gap. Further, the gross tax gap is not affected by the direct revenue from enforcement. Only the net tax gap, which is the gross tax gap minus those direct revenues, is affected. We are now preparing estimates of the net tax gap, for publication later this year.

We estimate that the Tax Reform Act will reduce the 1987 gross tax gap by $7.6 billion.

SEN. DOMENICI: Q: How is the tax gap estimate calculated? What uncollected taxes are not included in the tax gap estimate?

MR. GIBBS:	The basis of the tax gap estimates is our Taxpayer Compliance Measurement Program (TCMP) studies. These studies are supplemented with other information from a variety of other sources, including our operational examination programs and data or estimates prepared by other governmental agencies. The methods used to estimate the tax gap are explained in Chapter III of the IRS report entitled "Income Tax Compliance Research, Gross Tax Gap Estimates and Projections for 1973-1992." The tax gap estimates include only unpaid individual and business income taxes on legally earned income. Thus, gaps for the illegal sector, employment taxes, excise taxes, and estate and gift taxes are not included in the current estimates.
SEN. DOMENICI:	Q: What percentage of the tax gap is unpaid individual taxes and what percent is unpaid business tax?
MR. GIBBS:	For tax year 1987, 74.8 percent of the estimate of the gross tax gap represents unpaid individual income taxes, and 25.2 percent represents unpaid corporation income taxes.
SEN. DOMENICI:	Q: Is there any way to determine the amount of unpaid taxes resulting from illegal activities such as narcotics trafficking or, on a smaller scale, from work being done on a cash basis? How are you trying to identify these amounts and collect taxes owed on these amounts?
MR. GIBBS:	IRS stopped estimating the tax gap for three major segments of the illegal sector-- illegal drugs, gambling, and prostitution-- because their accuracy and value were questioned. Although income from illegal transactions is taxable, illegal-source incomes are both difficult to measure and to tax. Moreover, the idea of a tax gap in the illegal sector is a paradox. IRS does not want illegal activities to go on so they can be

taxed. IRS wants such activities to cease. When we help apprehend criminals, we largely eliminate their taxable incomes. Consequently, unless significant amounts of money or property are seized during or after the apprehension, no further taxes are collected on the illegal activities these individuals used to engage in.

We are now beginning a comprehensive review of our tax gap estimates. The purpose is to identify areas not now covered (such as the illegal sector, for example) which could be covered, and to identify feasible improvements in methods or data. We expect to publish revised estimates, in accordance with the results of the review, in about two years.

The tax gap associated with legal-sector work done on a cash basis is included in our estimates, but it is not separately identified.

IRS is actively engaged in efforts to identify and collect unpaid taxes in these areas. IRS has developed computerized data bases concerning movements of large amounts of cash; these rely on the currency transaction reports (CTRs), currency and monetary instrument reports (CMIRs), and payments received in a trade or business (Forms 8300). We are able to use these data bases to identify and investigate persons involved in criminal activities or in concealing income. We have special agents involved in undercover investigations to identify businesses in which large amounts of income have been omitted from the books. IRS receives information from State and other Federal law enforcement agencies investigating suspected narcotics traffickers. Such information can frequently be used to assess taxes on unreported income arising from drug dealing.

In our Examination function, we have undertaken a Schedule-C initiative, in which non-farm business returns are examined in greater depth with intensive probes for unreported income. In some of our regions, we have established special groups of examiners known as "compliance groups" which specialize in auditing returns with high potential for unreported income. Throughout the Service, all Revenue Agents and Tax Auditors, as well as all first line and mid-level examination managers have received special training in the use of indirect methods to detect unreported income.

SEN. DOMENICI: Q: I realize that the Administration has not proposed tax amnesty, but has the IRS done an estimate on the revenues which would result from a one-year tax amnesty program?

The IRS costs of its enforcement and collection work toward this group who would voluntarily pay during that period would obviously be saved, but we would also be foregoing interest penalties due the Federal Government. Have any estimates of these been done?

MR. GIBBS: IRS has not made any estimates of the revenue effects of a one-year tax amnesty. However, Based on the findings from the Service's Study of Tax Amnesty Programs (August 1987), it does not appear that an amnesty program on the Federal level would be effective in significantly reducing the tax gap. The successful state amnesties generally included accounts receivable, and for those states that could provide a breakdown between new and existing deficiencies, 66 percent of their amnesty revenue came from accounts receivable. As a result, these amnesty programs merely accelerated the collection process on known deficiencies.

The research also showed that for those states with available case data, 94 percent of the amnesty applicants were already on the Federal tax rolls. More than three-fourths of the applicants who were previously unknown to the IRS, but filed their first return subsequent to the state amnesty, had a refund or a zero balance return.

Finally, most of the successful state amnesties were conducted immediately prior to stepped-up enforcement or the granting of broadened compliance powers (e.g., the penalty for nonfilers changing from a misdemeanor to a felony, etc.) to state revenue agencies. Many of the states had not had adequate resources devoted to compliance activities before their amnesties. This contrasts sharply with Federal tax administration; IRS has and does maintain a consistent and effective enforcement effort.

SEN. DOMENICI: How many positions are currently devoted to combating organized crime and illegal narcotics money laundering activities? How many will be positions for these activities in fiscal year 1989?

MR. GIBBS: The IRS is currently devoting 2,967 average positions to combatting organized crime and illegal narcotics money laundering activities. In FY 1989, an estimated 3,094 average positions will be devoted to this effort.

SEN. DOMENICI: How many IRS agents were dedicated to Operation Alliance in fiscal year 1987?

MR. GIBBS: Operation Alliance was formally announced by the Vice President in August 1986. We were not fully staffed until May 1987. As a result, Criminal Investigation expended only 60 staff years during fiscal year 1987.

SEN. DOMENICI: What resources is IRS dedicating to Operation Alliance in fiscal years 1988 and 1989?

MR. GIBBS: IRS intends to apply 111 staff years in fiscal years 1988 and 1989.

SEN. DOMENICI: For the record, would you please provide us the following information on your Operation Alliance Activities:

(A) A month-to-month breakdown for fiscal year 1987 of investigations initiated, by district, which fit the Alliance criteria. This breakdown should include the number of cases, the type of case, the number of individuals involved in each case (if possible), and the extent of participation by other law enforcement agencies in each case.

MR. GIBBS: Enumerated below is a month-to-month breakdown for fiscal year 1987 of investigations, initiated by district, which fit the Alliance criteria. This breakdown includes the number of cases (individuals involved), and type of case. The extent of participation by other law enforcement agencies, by each case, cannot readily be determined.

ALBUQUERQUE DISTRICT

Month	Total No. of Invest. Initiated	Type of Case (alleged violations)
10/86	1	1 - 26-72061
8/87	1	1 - 26-7203
Total for District	2	

AUSTIN DISTRICT

Month	Total No. of Invest. Initiated	Type of Case (alleged violations)
10/86	3	1 - 21-848 2 - 26-7201
1/87	1	1 - 18-371K
2/87	2	1 - 18-371 1 - 26-72061
3/87	3	1 - 26-7201 1 - 31-5322B 1 - 18-371T
4/87	2	1 - 31-5322B 1 - 26-7201
5/87	7	2 - 31-5324 4 - 18-371T 1 - 31-5322
6/87	10	6 - 18-371T 2 - 26-72061 1 - 31-324 1 - 26-7201

Month	Total No. of Invest. Initiated	Type of Case (alleged violations)
8/87	5	2 - 26-7201 2 - 26-72061 1 - 18-371
Total for District	33	

DALLAS DISTRICT

Month	Total No. of Invest. Initiated	Type of Case (alleged violations)
5/87	6	3 - 18-371K 2 - 26-7201 1 - 18-1623
7/87	1	1 - 26-72061
8/87	1	1 - 26-7203
Total for District	8	

FT. LAUDERDALE DISTRICT

Month	Total No. of Invest. Initiated	Type of Case (alleged violations)
1/87	1	1 - 18-371T
Total for District	1	

HOUSTON DISTRICT

Month	Total No. of Invest. Initiated	Type of Case (alleged violations)
11/86	1	1 - 26-72061
1/87	1	1 - 26-72061
3/87	1	1 - 26-72061
4/87	4	3 - 26-72061 1 - 18-371
7/87	2	2 - 26-72061
Total for District	9	

LAGUNA NIGUEL DISTRICT

Month	Total No. of Invest. Initiated	Type of Case (alleged violations)
11/86	6	1 - 18-1623 3 - 18-371K 2 - 26-7201
1/87	1	1 - 26-72061
2/87	5	5 - 18-371T
3/87	5	3 - 18-371K 1 - 26-72061 1 - 31-5322B
4/87	2	1 - 18-371K 1 - 26-72061
5/87	3	1 - 26-7201 1 - 31-5322B 1 - 31-5324
6/87	23	6 - 31-5322B 14 - 18-371 1 - 26-72061 2 - 18-371K
7/87	5	3 - 18-1956 1 - 26-72061 1 - 31-5324
8/87	3	1 - 31-5322B 1 - 21-848 1 - 26-7201
Total for District	53	

PHOENIX DISTRICT

Month	Total No. of Invest. Initiated	Type of Case (alleged violations)
11/86	1	1 - 26-72061
12/86	2	1 - 18-371K 1 - 26-7201
5/87	6	6 - 21-846
6/87	4	4 - 26-7201
7/87	3	1 - 18-1623 1 - 18-371 1 - 26-7201
8/87	1	1 - 18-371
Total for District	17	

Total Investigations initiated in FY 1987: 123

SEN. DOMENICI: (B) Please provide a month-by-month breakdown of the number of cases closed in fiscal year 1987 which meet the Alliance criteria, including the location of each case, the nature of each case, and whether the case was recommended for prosecution.

MR. GIBBS: Enumerated below is a month-by-month breakdown of the number of investigations completed in fiscal year 1987 which meet the Alliance criteria, including the location of each case and alleged violation.

ALBUQUERQUE DISTRICT

Month	Total No. of Invest. Comp.	Type of Case (alleged violations)	Pros. Recomm.
2/87	1	1 - 26-7201	1 Yes
9/87	1	1 - 26-72061	1 No
District Total	2		

AUSTIN DISTRICT

Month	Total No. of Invest. Comp.	Type of Case (alleged violations)	Pros. Recomm.
10/86	2	1 - 18-371 1 - 18-371K	1 No 1 Yes
12/86	1	1 - 21-848	1 Yes
1/87	1	1 - 31-5322	1 Yes
2/87	2	2 - 31-5322	2 No
3/87	4	1 - 26-72061 1 - 21-848 2 - 18-371	4 Yes
5/87	12	5 - 31-5322 5 - 31-5324 1 - 26-7201 1 - 18-371	6 No 6 Yes
6/87	3	1 - 31-5324 2 - 18-371	3 Yes
7/87	3	3 - 31-5322	2 No 1 Yes
9/87	10	6 - 18-371 3 - 26-72061 1 - 31-5322	1 No 9 Yes
District Total	38		

DALLAS DISTRICT

Month	Total No. of Invest. Comp.	Type of Case (alleged violations)	Pros. Recomm.
6/87	1	1 - 18-1623	1 Yes
7/87	4	2 - 26-7201 2 - 18-371K	4 Yes
8/87	2	2 - 26-7201	2 Yes
9/87	1	1 - 18-371K	1 Yes
District Total	8		

FT. LAUDERDALE DISTRICT

Month	Total No. of Invest. Comp.	Type of Case (alleged violations)	Pros. Recomm.
7/87	1	1 - 18-371	1 No
District Total	1		

HOUSTON DISTRICT

Month	Total No. of Invest. Comp.	Type of Case (alleged violations)	Pros. Recomm.
11/86	1	1 - 26-72061	1 Yes
12/86	1	1 - 26-72061	1 Yes
2/87	1	1 - 26-72061	1 Yes
3/87	1	1 - 21-841	1 Yes
8/87	1	1 - 26-72061	1 Yes
9/87	4	2 - 18-371 2 - 26-72061	4 Yes
District Total	9		

LAGUNA NIGUEL DISTRICT

Month	Total No. of Invest. Comp.	Type of Case (alleged violations)	Pros. Recomm.
4/87	3	3 - 18-371K	3 Yes
6/87	8	6 - 18-371K 1 - 26-7201 1 - 26-72061	8 Yes
7/87	2	2 - 26-72061	2 Yes
8/87	2	1 - 31-5324 1 - 18-1623	2 Yes
9/87	1	1 - 31-5324	1 Yes
District Total	16		

PHOENIX DISTRICT

Month	Total No. of Invest. Comp.	Type of Case (alleged violations)	Pros. Recomm.
3/87	1	1 - 18-371	1 Yes
5/87	7	6 - 21-846 1 - 26-72061	7 Yes
7/87	1	1 - 18-371	1 Yes
8/87	4	3 - 18-371 1 - 18-1623	4 Yes
District Total	13		

Total Investigations completed in FY 1987: 87

SEN. DOMENICI:	(C) Please provide the status and result of each case recommended for prosecution.
MR. GIBBS:	Enumerated below is the statistical data which answers this question.

Prosecution Recommendations	73
Total Convictions	59
Declinations	5
Total Sentenced	43

SEN. DOMENICI:	(D) Of the cases recommended for prosecution, please provide the number of cases declined by the U.S. Attorneys. In each case turned down, was a letter of declination provided? What were the reasons for declination?
MR. GIBBS:	Our statistical data shows that five cases were declined by the U.S. Attorneys Office. There were two declinations in the Phoenix District, one in the Albuquerque District, one in the Austin District, and one in the Dallas District. Four of the five were declined because of action in a related case and one was declined because of lack of sufficient evidence and/or witnesses.

IRS FUNDING FOR PAST TEN YEARS

Sen. Domenici: Would you please provide us, for the record, historical data on IRS funding and staffing levels over the past ten fiscal years; showing, by account, for each year the funding levels and average positions requested by the President versus the appropriations level and average positions funded?

Mr. Gibbs: On the attached chart is a listing by account for the past ten fiscal years of IRS funding and staffing levels requested by the President versus funded appropriations.

INTERNAL REVENUE SERVICE
Average Positions and Amounts by Appropriation
Requested and Funded
FY 1979-1989
(amounts in thousands)

Fiscal Year	Salaries and Expenses		Processing Tax Returns		Examination and Appeals		Investigation, Collection and Taxpayer Service		Total	
	Requested	Funded	Requested	Funded	Requested	Funded	Requested	Funded	Requested	Funded
FY 1979 Average positions	4,598	4,638	33,672	34,576	29,783	29,805	18,439	18,444	86,492	87,463
Amount	$134,975	$142,194	$694,500	$754,078	$758,000	$780,330	$458,515	$478,743	$2,045,990	$2,155,345
FY 1980 Average positions	4,516	4,558	35,235	34,995	29,551	30,367	17,927	18,264	87,229	88,184
Amount	$142,908	$150,583	$773,160	$805,853	$789,711	$840,574	$476,711	$501,421	$2,182,490	$2,298,431
FY 1981 Average positions	4,671	4,505	34,441	33,681	30,537	29,830	19,948	19,636	89,597	87,652
Amount	$158,595	$164,008	$822,807	$845,767	$863,679	$900,008	$539,997	$569,460	$2,385,078	$2,479,243
FY 1982 Average positions	4,473	3,922	32,865	30,824	30,274	29,715	20,388	20,902	88,000	85,363
Amount	$168,436	$156,308	$864,772	$891,118	$929,813	$917,376	$602,628	$624,232	$2,565,649	$2,589,034
FY 1983 Average positions	3,918	2,250	29,286	25,394	30,910	34,119	24,559	28,601	88,673	90,364
Amount	$171,102	$170,510	$957,679	$1,000,778	$1,016,634	$1,049,224	$771,744	$767,493	$2,917,159	$2,988,005
FY 1984 Average positions	2,310	2,271	26,064	24,297	35,673	34,393	28,745	28,321	92,792	89,202
Amount	$102,312	$101,494	$942,203	$942,150	$1,259,815	$1,258,310	$1,014,774	$1,023,676	$3,319,104	$3,325,630
FY 1985 Average positions	2,243	2,207	23,187	23,111	35,354	35,171	27,595	27,254	88,379	87,743
Amount	$104,687	$105,989	$1,002,457	$986,380	$1,357,073	$1,376,740	$1,067,642	$1,072,488	$3,531,859	$3,541,597
FY 1986 Average positions	2,071	2,071	22,846	28,944	35,456	35,923	26,116	26,786	86,489	93,724
Amount	$95,932	$89,958	$998,241	$1,213,769	$1,375,302	$1,427,121	$1,041,725	$1,095,289	$3,511,200	$3,826,137
FY 1987 Average positions	2,044	1,895	27,327	30,629	38,974	39,699	26,739	28,975	95,084	101,198
Amount	$95,147	$91,895	$1,262,902	$1,470,248	$1,603,162	$1,668,104	$1,136,581	$1,217,545	$4,097,792	$4,447,792
FY 1988 Average positions	1,628	1,628	33,300	35,160	43,644	41,892	32,089	33,481	110,661	112,161
Amount	$87,165	$87,165	$1,702,576	$1,723,305	$1,856,581	$1,775,598	$1,425,528	$1,472,812	$5,071,850	$5,058,880
FY 1989 Average positions	1,630		36,175		42,412		33,594		113,811	
Amount	$94,547		$1,850,134		$1,864,819		$1,490,225		$5,299,725	

IRS INFORMATION FOR THE RECORD ON REVENUE RETURN

SEN. DOMENICI: Would you please provide for the record, by appropriation account, the ratio of revenue return on investment for each of IRS's enforcement activities, showing the revenue return on investment on the base program for Fiscal Year 1989 and the return on every dollar of marginal investment that might be provided.

MR. GIBBS: The following table shows the FY 1989 IRS estimates for revenue return on existing enforcement programs. It also shows what return could be expected with the maximum additional enforcement resources that IRS could absorb. The specific features of the Summit Agreement neither assume nor require such increases for FY 1989.

The enforcement revenue estimates shown are continually subject to revision, and they must be used with caution. While IRS has made progress in the difficult area of modeling and measuring the revenue effect of its enforcement activities, further work needs to be done over the next few years. We believe that they are reasonable measures, in part because the Office of Tax Analysis (Treasury) reviews the output of the model for consistency with its modeling of total government receipts.

INTERNAL REVENUE SERVICE
FY 1989 BUDGET REQUEST - YIELD TO COST BY APPROPRIATION
BASE PROGRAM AND MARGINAL INCREASES
(Dollars in Millions)

1. IRS BASE PROGRAM

APPROPRIATION	AVG. POS.	AMOUNT	FY 1989 REVENUE	YIELD/ COST
SALARIES AND EXPENSES	- - -	- - -	- - -	- - -
PROCESSING TAX RETURNS	5,146	$151.5	$1,903	12.6 : 1
EXAMINATION AND APPEALS	36,618	$1,614.1	$20,575	12.7 : 1
INVESTIGATION, COLLECTION AND TAXPAYER SERVICE	20,362	$785.9	$30,125	38.3 : 1
IRS TOTAL	62,126	$2,551.5	$52,603	20.6 : 1

2. INCREASES DUE TO IRS ENFORCEMENT INITIATIVES (NOT PROPOSED)

APPROPRIATION	AVG. POS.	AMOUNT	FY 1989 REVENUE	YIELD/ COST
SALARIES AND EXPENSES	- - -	- - -	- - -	- - -
PROCESSING TAX RETURNS	186	$4.7	$19	4.1 : 1
EXAMINATION AND APPEALS	3,829	$158.9	$511	3.2 : 1
INVESTIGATION, COLLECTION AND TAXPAYER SERVICE	2,827	$123.1	$590	4.8 : 1
IRS TOTAL	6,842	$286.6	$1,120	3.9 : 1

DEPARTMENTAL OFFICES

STATEMENT OF JILL E. KENT, ACTING ASSISTANT SECRETARY, MANAGEMENT, AND DEPUTY ASSISTANT SECRETARY FOR FINANCE AND MANAGEMENT

ACCOMPANIED BY:
MARY PRIDE WINKENWERDER, DEPUTY ASSISTANT SECRETARY FOR ADMINISTRATION
ROGER M. COOPER, DEPUTY ASSISTANT SECRETARY FOR INFORMATION SYSTEMS

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. We are now going to go to the Department of the Treasury, Ms. Jill Kent, Acting Assistant Secretary of the Treasury for Management; Mary Pride Winkenwerder, Deputy Assistant Secretary, and Roger M. Cooper, Deputy Assistant Secretary for Information Systems.

Ms. KENT. Thank you, Mr. Chairman.

Let me introduce Mary Pride Winkenwerder, the Deputy Assistant Secretary for Administration, and Roger Cooper, the Deputy Assistant Secretary for Information Systems.

PREPARED STATEMENT

I will summarize my statement and ask that my full statement be placed in the record.

Senator DECONCINI. Without objection, it will appear in the record.

[The statement follows:]

STATEMENT OF JILL E. KENT

Mr. Chairman and members of the committee, I am pleased to appear before you today to discuss the fiscal year 1989 budget request for the salaries and expenses appropriation of the Treasury's Departmental Offices. This request supports the Secretary of the Treasury in his dual role as the chief financial officer of the Federal Government and the chief operating officer of one of the Nation's major departments.

The Departmental Offices appropriation funds' essential functions include: (1) Policy formulation and management of U.S. domestic and international economic, monetary, financial institutions, and tax policies; (2) management of the fiscal operations of the U.S. Government and the servicing of the public debt; and (3) oversight of Treasury's bureaus.

The fiscal year 1989 budget request reflects our commitment to fulfill these important responsibilities within the limitations of current fiscal constraints.

The Department's fiscal year 1989 budget request is for $83.7 million and 1,190 full-time equivalent employment positions. This represents a current services budget with increases only for uncontrollable costs, and no new program initiatives. As compared to the fiscal year 1988 proposed authorized level, the fiscal year 1989 budget request is 6 percent higher ($4.6 million) and 20 average positions lower. Some key points of the requested net increase include: (1) $2.9 million inflationary cost increases for current services; (2) $1.1 million to fund the fiscal year 1989 annualization of the fiscal year 1988 Federal pay raise enacted by Congress; (3) $0.8 million to fund the fiscal year 1989 2 percent Federal pay raise; (4) $1.1 million for relocation costs for Treasury personnel to occupy the newly renovated Treasury Annex instead of less cost-effective leased GSA space; (5) $1.7 million for development costs of the digital telecommunications system; (6) $0.4 million reduction in salaries and benefits resulting from two fewer compensatory days in the fiscal year; and (7) $0.8 million reduction and 20 average position decrease consistent with the administration's intent to reduce Federal employment.

Two specific components of this proposal represent unique program needs not associated with inflationary cost increases. These are: (1) the relocation of Treasury personnel from leased space to the Treasury Annex; and (2) the digital telecommunications system.

First, Departmental Offices will relocate 380 employees into the Treasury-owned Annex Building in late fiscal year 1989 when rehabilitation annex work is successfully completed. To accomplish this relocation, $900,000 is needed to purchase and to install modular furniture from Federal supply schedules to maximize the efficient utilization of space. An additional $190,000 is required to transport Government-owned equipment, documents, and materials; and to connect telephones, and computers upon the relocation to the Annex Building.

The move will be very cost effective, resulting in total rental savings of $1,700,000 per year, beginning in fiscal year 1990, from relinquishing GSA leased space.

Second, the digital telecommunications system [DTS] is a departmental initiative to modernize Treasury telecommunications. Funds are needed to convert the present Centrex II telecommunications system to a digital telecommunications system. Current Centrex II technology cannot provide the capability to meet projected data and office automation expansions. Estimated project costs are based on private sector surveys and were coordinated with GSA.

We have presented for your consideration this request for fiscal year 1989 for $83,681,000. The essential need for funding projects such as the Treasury Annex and the digital telecommunications system have been outlined before you today. They are critical for the continued efficient operation of Treasury's Departmental Offices.

Mr. Chairman, this budget request supports our policy objectives and will enable us to meet our responsibilities. Thank you for your consideration of our request.

I will be happy to answer your questions at this time.

BUDGET REQUEST

Ms. KENT. Mr. Chairman, I am pleased to appear before you today to discuss the fiscal year 1989 budget request for the "Salaries and expenses" appropriation for Treasury's Departmental Offices.

The fiscal year 1989 budget request is for $83,681,000, and 1,190 full-time equivalent positions. This represents a current services budget with no new program initiatives. Some key points of the requested net increase include: $1.8 million for increases related to inflation and compensation adjustments; $1.1 million for relocation costs for 380 Treasury employees to occupy the newly renovated Treasury Annex in late 1989. This move will result in a total rental savings of $1.7 million annually; and $1.7 million for development costs of the digital telecommunications system. This is a departmental initiative to modernize Treasury telecommunications by converting from the present Centrex II system.

Mr. Chairman, this budget request supports our policy objectives and will enable us to meet our responsibilities.

Thank you for your consideration. I would be pleased to answer any questions.

Senator DeConcini. Thank you.

Does anyone else have a statement?

[No response.]

JANUARY 1989 PAY RAISE

Senator DeConcini. Ms. Kent, I notice that you are requesting $840,000 to cover the cost of the January 1989 pay raise for the Departmental Offices. As I read your justification, you are not being forced to absorb any of that pay raise. Yet, I look at the budgets of other Treasury bureaus, including the Federal Law Enforcement Training Center, Bureau of Alcohol, Tobacco and Firearms, and the Financial Management Service, they are being forced to absorb as much as one-half of their January 1989 pay raise. Customs, according to the justification, won't receive any of its January 1989 pay raise.

Why should the Departmental Offices get a free ride on the January 1989 pay raise when other Treasury agencies have to absorb one-half or all?

Ms. Kent. Mr. Chairman, there are actually three Treasury bureaus that have received 100 percent of the 1989 pay raise. In addition to Departmental Offices, the Secret Service received 100 percent and Customs also received 100 percent.

The approach worked out with the Office of Management and Budget was to ensure that program levels planned for could be carried out in fiscal year 1989. A number of our law enforcement bureaus and the Internal Revenue Service had been fairly well funded, both in the 1988 continuing resolution and before.

Then there were some other bureaus, like Departmental Offices, and a couple of others that did take budget reductions. Because of the budget reduction that Departmental Offices received, we did not have flexibility within other object classes to absorb the fiscal year 1989 pay raise.

In order to maintain current levels, it was necessary for Departmental Offices to receive the full cost of the pay raise. The same was true with the Secret Service. The Secret Service budget was quite tight. It was believed that these increases are necessary in order to maintain current levels of staff and programs.

Senator DeConcini. Let me tell you what troubles me. The Federal Law Enforcement Training Center got one-half or less, and you come in to pick all of yours up. How do you justify that in your administrative management?

Ms. Kent. I can understand your concern, Mr. Chairman. The reason being that the Federal Law Enforcement Training Center, as well as a number of other law enforcement bureaus, had been quite well funded in the 1988 continuing resolution. They received funding over and above the President's budget request. Departmental Offices received funding which was less than the President's budget request. Consequently, Departmental Offices had a reduced base going into 1989, and there is less flexibility to absorb these costs within other areas.

Also, if we look at the history of Departmental Offices, say, during this administration, there has really been approximately a 1-percent increase in real terms in the budget. So we have been held fairly level. The law enforcement bureaus and IRS, average increases of over 50 percent for this same period. That is the difference, we have been constrained.

Senator DECONCINI. I yield to Senator Domenici.

Senator DOMENICI. Mr. Chairman, do we have both the mint and Treasury before us at this point, or just Treasury?

Senator DECONCINI. Just Treasury.

Senator DOMENICI. I have no questions with reference to the Treasury Department.

Senator DECONCINI. The Senator from Maryland?

Senator MIKULSKI. I have no questions, Mr. Chairman.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. You are getting off awfully easy. I hate to let you go, but you are doing such a splendid job. We are going to submit some questions to you, Ms. Kent.

Ms. KENT. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

RELOCATION OF EMPLOYEES TO ANNEX

Ms. Kent, one of your largest increases over FY 1988 is $1,090,000 to relocate 380 Treasury employees from leased space to the renovated Treasury Annex.

As you know, Ms. Kent, GSA has a program in its budget for the relocation of other Federal agency personnel from leased space into Government owned space---and they have a budget of $50,000,000 next year to pay for it! Seems to me that if this relocation of Treasury employees is so important it should be paid for out of the GSA relocation account, along with any other relocation that GSA deems worthy of support.

QUESTION: Why did you ask for an additional $1.1 million for relocation when there already exists a program to do exactly what you want to do next year?

ANSWER: The Federal Property and Administrative Services Act of 1949 mandates Treasury direct control over its own complex. In the course of forty years of direct management responsibility, Treasury has developed the experience and knowledge to operate the Treasury Complex with maximum efficiency. No doubt, GSA has a budget to move government employees from leased space into government space that GSA controls. However, GSA is not funded to move government employees from leased space into a facility over which GSA does not have jurisdiction. By law, the Treasury complex is not controlled by GSA, nor does the GSA budget include funds for the Main Treasury and Annex Buildings. In effect, the jurisdiction of GSA is nonexistent here by statute. The Treasury Complex is directly managed by the Treasury.

TRAVEL: WHY NO CUTS?

Ms. Kent, as you know, both the Congress and this Committee were on-record last year in support of significant cutbacks in travel. The Budget Resolution called for a 23% cut in travel. We tried to reduce travel of most of our agencies by about 13%.

Yet I notice that your travel budget has increased steadily since fiscal 1987 and is up again in Fiscal Year 1989. In short, you seemed to have ignored our directives to cut travel in fiscal 1988.

QUESTION: Why weren't you able to comply with the Committee's directives to cut back travel in fiscal 1988?

ANSWER: The Departmental Office's travel budget includes overseas trips by the Secretary of the Treasury to perform his role as the chief financial officer of the Federal Government. Because of the current international economic climate, the Secretary and his staff have been required to increase their travel, both at home and abroad. For example, in FY 1987 we had to absorb an unbudgeted travel cost of $234,990 for military aircraft necessary for the Secretary's trip to Saudi Arabia for the meetings of the US/Saudi Arabia Joint Commission on Economic Cooperation.

As a result of prudent management, Departmental Offices has been able to keep actual travel costs below requested levels. This has been the case consistently over the last six years. Actual travel costs incurred in FY 1987 were $291,000 less than the requested amount.

The funding levels requested in our travel ceilings acknowledge the possibility that unexpected international travel may be required. However, we anticipate that actual travel costs for FY 1988 and FY 1989 will be less than the requested ceilings, thus continuing our conscious effort to restrain travel expenditures.

WHAT HAPPENED TO BATF BUDGET?

Ms. Kent, this next question should probably be reserved for the Secretary when he comes before us, but I wanted to get your views on what happened to a couple of the Treasury agency budgets during deliberations with OMB last year.

After Congress and President approved a BATF budget with 200 additional positions over the prior year, the President cut BATF back by 216 positions in fiscal 1989. And the Federal Law Enforcement Training Center is about $4-5 million short of being able to meet the growing demands placed on it for law enforcement training.

QUESTION: Tell us about your efforts in the budget battle with OMB to assure adequate resources for these two important law enforcement agencies? What happened and why?

ANSWER:

Alcohol, Tobacco and Firearms

The Department's original request to OMB was $225,282,000 and 3,251 Full Time Equivalent (FTE) positions. The initial allowance by OMB was $203,803,000 and 3,007 FTE. The Department appealed for $236,051,000 and 3,451 FTE. The President's Budget request is $218,503,000 and 3,235 FTE.

The Department's appeal level was based upon a decision to stabilize ATF's FY 89 operations at FY 88 levels. As a result of negotiations with OMB, the Department agreed to reduce ATF's budget by 216 FTEs primarily in the firearms enforcement program. This allowed for a 51 percent increase in this activity over FY 86 levels, which was felt to be adequate but not excessive.

FLETC

The Department's original request to OMB was $26,718,000 and 325 direct FTE. OMB's initial response was $23,345,000 and 325 direct FTE. On appeal, the Department sought a total of $28,034,000. The increase over the original request was to permit full funding of the positions added by the FY 1988 Continuing Resolution. The President's FY 1989 Budget seeks $26,525,000.

It should be emphasized that FLETC *will* meet the basic training needs of the participating agencies. This will be accomplished, if necessary, by shifting the training costs from FLETC to the participating agencies, which will reimburse FLETC for part of the costs of basic training. OMB has expressed interest in reviewing the policy of having FLETC fund all of the direct costs of basic training.

CRAFTS AND CUSTODIAL

Your budget justifications (p.7) show that you have a workforce of 75 positions for so-called "Crafts and Custodial" staff.

QUESTION: Could you tell us why you need 75 people for this activity and what is the budget request for "Crafts and Custodial" staffing next year?

ANSWER: The Treasury Department is unique in that both the Main Treasury and the Annex buildings are under its ownership and control. This responsibility requires that resources be devoted to the dual objectives of providing quality office space for all the offices within the Bureau, as well as maintaining the unique character of the buildings. Further, over the last two years under GSA's Delegation Program, federal agencies have been encouraged to assume the responsibility for maintenance of their buildings.

Funds budgeted in the Building Maintenance and Operations activity provide staff and related support for the ongoing maintenance and operation of the buildings and for utilities. The FY 1989 budget request is $16,658,400 for this activity, which includes the compensation and benefits costs for 77 average positions. The 77 average positions requested for FY 1989 will provide for the ongoing maintenance, operation and service of the buildings. Some of the primary functions are:

- Provision of regular maintenance of all work space within the Main Treasury Building;
- Provision of reliable cleaning and emergency repair services;
- Management of space utilization within the Main Treasury Building and coordination of requirements in order to minimize the need for outside rental space; and
- Management of utility consumption within the Main Treasury complex in an effective and economical manner.

In FY 1989, we are requesting $16,658,000 for the Building Maintenance and Operations activity. The increase of $3,706,000 over FY 1988 is for:

Pay Increase	$ 119,000
Annex Move	1,090,000
Digital Telecommunications Systems	1,726,000
MCL's (Maintaining Current Levels)	771,000
Total	$3,706,000

PUTTING MORE IMPORT SPECIALISTS INTO CUSTOMS

Ms. Kent, last year, during a discussion of the Customs Service's commercial operations, you told the Committee that you had a study ongoing to analyze the impact of adding additional import specialists, on the revenues collected by Treasury. My view was then and is now, that there are revenue payoffs to be achieved by putting more commercial staff into selected programs at Customs.

QUESTION: Have you completed your study and if so, what are the results? (Kent said it was supposed to be finished by summer of 1987). p. 765 of hearings last year.

ANSWER: The study was completed but not released because of potential deficiencies in some of the data. However, it appeared that there was not a strong reason to believe that revenue could be substantially increased by the addition of a large number of import specialists, and we did not feel that further study of the issue would be fruitful. Current efforts in automation and a planned increase in regulatory auditors was felt to provide a better solution.

DIGITAL TELECOMMUNICATIONS SYSTEM

Another one of your large increases in your fiscal 1989 request is $1,726,000 for your share of the continued development cost of the new Treasury telecommunications system.

QUESTION: What would be the effect on your operations if this increase were cut back by Congress by, say, 10% or so?

1/ Funds are required for inflationary increases in space rentals, telephone, telegraph, teletype, FTS, printing, and electricity.

ANSWER: The most serious effect of a 10% or more reduction in our FY 1989 request for the Digital Telecommunications System would be a delay in the implementation of the system at the Treasury Department. This delay would not only cause a disruption in the level of telecommunications at Treasury, but would also cost the Government more in the long term. With the escalation of all costs, and in particular telecommunications costs, any delay only adds to the cost in the outyears.

In particular, the Consulting Services Support contract, which is essential in the implementation phase, would have to be severely restricted and possibly cancelled. Without this critical support, the implementation phase would be lengthened, with a resulting increase in cost to the Government.

INSPECTOR GENERAL

As you know, the Senate has passed and sent to the House legislation that would, among other things, establish a statutory inspector general at Treasury for the first time in your history. Our office spent a great deal of time working with the Government Affairs Committee in trying to help craft a bill that would not jeapordize some of your most sensitive missions. I think the final bill is a good compromise.

You are asking for 114 positions and $5,673,000 for the inspector general at Treasury in fiscal 1989. I am assuming that this would fund your existing, NON-STATUTORY inspector general operations -- not the new I.G. bill.

QUESTION: If the I.G. bill becomes law this year, what effect, if any will that have on your overall budget and particularly your Inspector General budget request?

ANSWER: Overall Impact of S. 908

S. 908, recently passed by the Senate, would dramatically increase the Office of Inspector General (OIG) budget and would also increase the budget for several support organizations within Treasury's Departmental Offices. S. 908 would require the reassignment of internal auditors to the OIG from the Bureau of Alcohol, Tobacco and Firearms (ATF), U.S. Customs Service, and U.S. Secret Service. In addition, it would be necessary to transfer an appropriate number of support personnel.

The Department has not determined how many positions would transfer to Departmental Offices from ATF, Customs, and Secret Service. Therefore, the budget impact of S. 908 can only be roughly estimated at this time.

Estimate of Continuing Budget Increase Resulting From S. 908

We estimate that, if S. 908 passes, the Departmental Offices budget requirements will increase by roughly 152 FTEs and about $8.1 million. Of this amount, 131 FTEs and about $7.5 million would be for the OIG. The majority of the needed resources could be offset by decreases in the appropriations for ATF, Customs and Secret Service.

The estimated 152 additional staff includes about 107 auditors and 5 investigators (to perform joint projects and deal with investigative leads provided by auditors), plus support staff. This does not include a sizeable staffing increase (60 positions) requested by the Director of Internal Audit, Customs, to improve audit coverage of that bureau.

The support staff will consist of:

-- secretaries, computer specialists and administrative office personnel for the OIG; and

-- personnel specialists, budget analysts, procurement specialists and other support personnel for servicing organizations within Departmental Offices.

Budget Requirements to Implement the Consolidation

S. 908 would consolidate the internal audit functions of ATF, Customs, Secret Service, and the current non-statutory Inspector General. Costs will be incurred to implement this consolidation.

The dollar amount cannot be estimated at this time, but will be significant. The costs of implementation, especially ADP-related costs, may extend over several fiscal years.

REPAIR AND IMPROVEMENTS

On page DO-8 of your justifications you indicate that funds budgeted for the repairs and improvements activity will allow Treasury to retro-fill PCB transformers; implement roof repair design and 15th Street walkway repair design.

Sounds to me like we are going to be asked to fund a new roof and a new walkway in the near future.

QUESTION: Can you tell us about the budget implications of these projects; what they may cost us down the road; and what other major repair and improvement initiatives are coming down the road at Treasury's main offices?

ANSWER: The Treasury complex (Main Treasury and Annex Buildings) is over 100 years old and we have building repairs that will require funding in future fiscal years. The main building roof leaks, the sidewalks are deteriorated, the granite steps on the west side leak and the 15th Street Main entrance steps are crumbling in places. The south plaza pavers are deteriorated, some of the mechanical systems are at or near their mechanical life expectancy and we have other areas of the complex that require repairs and improvements.

The historic Treasury Building and Treasury Annex Building are irreplaceable resources. We have a major responsibility to plan repairs and improvements and maintain these Buildings in good condition. We do have major initiatives for which funds should be requested in future fiscal years. The number of projects and total amount of funds required in fiscal year 1990, through fiscal year 1994, have not been finalized. The actual request for fiscal year 1990 will be determined during our budget formulation process.

Listed below are future projects that we will have to accomplish to maintain structurally sound and environmentally safe facilities:

Project	Estimated Costs ($000s)
o South plaza and fence repairs;	$ 445
o New roof covering Main Treasury Building;	1,500
o Hamilton Place pavers;	175
o West steps repair survey and design;	90
o 15th Street entrance-steps repair;	165
o Remove Main Treasury cafeteria and restore south courtyard;	1,200
o Annex alley;	350
o Asbestos removal from air conditioner duct in corridor, Main Treasury;	200
o Replace annex roof survey and design;	60
o Annex loading dock and leveler repair;	160
o Exterior illumination, Main Treasury Building;	200
o Cycle painting limited to rooms in basement and 5th floor;	175
o Cycle painting rooms on 1st and 4th floors;	175
o Painting - West Lobby;	125
o Painting - General Counsel;	90
o Replace Roof Annex Building;	160
o New Blind Stand - Main Treasury	90
o Repair Marble Floors - 2nd and 3rd Floors; and	420
o Mechanical systems survey and study of systems at, or near, life expectancy.	Cost Undetermined

SPECIAL STUDIES AND ANALYSES

Next year your budget calls for $80,000 for so-called special studies and analyses. These include contracts for studies of automated data processing and software development, telecommunications engineering, and so forth.

In Fiscal year 1987 you were able to do without ANY funding for these studies. Last year you asked for and received the same amount that you are requesting in FY 1989.

QUESTION: In these tight budget times, why couldn't we cut this area back? How were you able to do without this money in fiscal 1987?

ANSWER: OMB Circular A-130 (Management of Federal Information Resources) and Treasury Directive 85-02 (Automated Information Systems Security and Risk Management Program) require Departmental Offices to analyze, and take appropriate action related to, the security of its automated information systems in a comprehensive manner at least once every three years. The cost each year of analyzing one-third of the Bureau's systems is $80,000.

In FY 1987, Departmental Offices spent $68,000 on information systems risk analyses. The information contained in the Bureau's FY 1989 budget request indicating that no funds were spent on this activity in FY 1987 is erroneous.

LEGISLATIVE PROPOSALS

Ms. Kent, there are two proposed legislative initiatives that would affect appropriations for the Treasury Department in fiscal year 1989. One calls for the direct funding of the administrative expenses of the Federal Financing Bank, rather than through the traditional reimbursement from specific client agencies and programs. The other calls for the creation of a Federal Credit Direct Loan Revolving Fund and a Federal Credit Guaranteed Loan Revolving Fund under Treasury's direction. The Funds would serve as central revolving funds and financing mechanisms for all new direct and guaranteed loans. Federal credit agencies would be required to obtain appropriations for the present value of the estimated subsidy costs of these loans and transfer those amounts to the Funds. The Credit Financing Service would be created with an initial appropriation of $4,326,000 and 46 positions to run the programs.

QUESTION: What is the status of these legislative proposals and what are their prospects for enactment this year?

ANSWER: Federal Financing Bank

The legislative initiative regarding the direct funding of the administrative expenses of the Federal Financing Bank (FFB) is currently being revised within the Department of the Treasury. Unlike last year's more encompassing legislative proposal, this revision will likely confine itself to the matter of the direct funding of FFB administrative expenses.

Credit Reform

The Administration's credit reform proposal calls for the creation of two revolving funds within Treasury to finance new direct and guaranteed loans. This initiative has been revised by the Office of Management and Budget and is currently being circulated among executive branch departments and agencies prior to its submission to the Congress.

These proposals are part of the legislative program of the President. Treasury supports their enactment this year.

BUREAU OF THE PUBLIC DEBT

and

U.S. MINT

STATEMENTS OF:

RICHARD L. GREGG, COMMISSIONER, BUREAU OF THE PUBLIC DEBT
HON. DONNA POPE, DIRECTOR, U.S. MINT

ACCOMPANIED BY:

JERROLD SPEERS, EXECUTIVE DIRECTOR, U.S. SAVINGS BONDS DIVISION
GERALD MURPHY, FISCAL ASSISTANT SECRETARY, DEPARTMENT OF THE TREASURY
EUGENE H. ESSNER, DEPUTY DIRECTOR, U.S. MINT
JOSEPH WAGNER, ASSISTANT DIRECTOR FOR BUDGET AND FINANCE, U.S. MINT
PAUL W. BATEMAN, DEPUTY TREASURER OF THE UNITED STATES, DEPARTMENT OF THE TREASURY
EDWIN A. VERBURG, DIRECTOR, OFFICE OF FINANCE, DEPARTMENT OF THE TREASURY

BUREAU OF THE PUBLIC DEBT

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. We are going to do the Bureau of the Public Debt now, Mr. Richard Gregg, and why don't we do the mint also.

Richard Gregg, Commissioner of the Public Debt; Mr. Jerrold Speers, Executive Director, Savings Bonds Division; and Mr. Gerald Murphy, Fiscal Assistant Secretary. We will also ask the U.S. Mint, Donna Pope, Director of the U.S. Mint.

Senator DECONCINI. Would you like to introduce the people you have with you, for the record, please?

Mr. GREGG. This is Mr. Gerald Murphy, Fiscal Assistant Secretary; and Mr. Jerrold Speers, the Director of the U.S. Savings Bonds Division.

Senator DECONCINI. Would you summarize your statement please?

PREPARED STATEMENTS

Mr. GREGG. I and Mr. Murphy and Mr. Speers have longer statements, which we would like to submit for the record.

Senator DECONCINI. They will appear in the record, without objection.

[The statements follow:]

STATEMENT OF RICHARD L. GREGG

Introduction

Mr. Chairman and members of the Committee, I appreciate this opportunity to discuss with you our fiscal year 1989 appropriation request for "Administering the Public Debt."

This appropriation request provides funds for both the Bureau of the Public Debt and the U.S. Savings Bonds Division. The latter is a separate organization responsible for promoting the sale of savings bonds and will be discussed separately.

FY 1989 Appropriation Request

The total appropriation request for "Administering the Public Debt" in fiscal year 1989 is $242.8 million. Of this total, the Bureau of the Public Debt is requesting $223,960,000 and 1,881 average positions. This is a net increase of $28.8 million over the FY 1988 level but a net decrease of 45 average positions. While our 1989 request is a 15 percent increase over our 1988 authorized level, it is an increase of only 1 percent, or $2.4 million over our 1988 Congressional request. For the most part, the increase in funding is needed to reimburse our agents for work performed on behalf of the Bureau. The reduction in the number of average positions results primarily from planned savings derived from the implementation of our new securities processing system, TREASURY DIRECT.

Federal Reserve Bank Requirements

Our fiscal year 1989 budget request includes an increase of $26.9 million over our fiscal 1988 funding for reimbursements to the Federal Reserve Banks in support of their activities as the Bureau's fiscal agents.

The policy and practice of the Bureau for many years has been to fully reimburse the Federal Reserve Banks for the work that they do for us. The services that they provide are essential to our mission accomplishment and, in many cases, represent work that would otherwise have to be accomplished by Bureau personnel. This ability to reimburse the Banks for the costs incurred in direct support of this Bureau's programs is an important element of our principal-agent relationship.

Full reimbursement has been supported by the Treasury, the Office of Management and Budget. Federal Reserve Banks had been fully paid by the Bureau until 1986 when requested funds were reduced in anticipation of a legislative proposal to partially fund Federal Reserve Banks from fees charged for certain services. In our 1988 budget, good progress was made in obtaining additional funds for services provided by Federal Reserve Banks. Our 1989 request, if enacted, will return the Bureau to its 70-year policy of full reimbursement.

Savings Bond Program

We are requesting funding for a moderate increase in workload for the savings bond program. We expect to sell 107 million savings bonds in fiscal 1989, an increase of six percent over anticipated levels for 1988. Nineteen additional average positions and $5.8 million is needed to manage the additional workload. The increased funding is necessary for Bureau operating costs and for payments to our agents.

During the past year the Bureau has experienced a marked increase in the correspondence and claims work associated with savings bond processing. The immediate impact of this workload increase was undesirable levels of overtime in the program. In order to eliminate the problem, the Bureau started the year by allocating an additional 25 workyears to the Savings Bonds Operations Office in FY 1988. Recent indications are that we are likely to need to apply more resources to this area. We will continue monitoring workload levels in an effort to ensure that we have adequate resources devoted to processing savings bonds workloads.

We have recently increased our efforts to improve the savings bond program. One project, which we call E-Z CLEAR, will allow redeemed savings bonds to be forwarded by paying agents to their Federal Reserve Bank through the nation's existing automated check processing system. E-Z CLEAR is a very favorable alternative to the time-consuming and labor-intensive processing system which has been used for more than 50 years. E-Z CLEAR is currently operating as a pilot in a number of Federal Reserve locations and nearly two million savings bonds have already been processed through the system. We plan to have this new system available for testing at all Federal Reserve check processing locations by the end of 1988 and available to all paying agents by April 1989. Estimated savings for FY 1989 are $965 thousand and 5 average positions.

The Bureau has another project under way which is in its very early stages. This is our Ohio Project, which is a pilot to test the practicality of issuing savings bonds from central locations, rather than over-the-counter at every financial institution. This pilot has been under way since October 1987 and includes the entire State of Ohio. Under this approach, an application for savings bonds is obtained and completed at a local financial institution but the bonds are issued and mailed directly to the purchaser by a Federal Reserve bank. Potential benefits resulting from this program change include reduced costs for the Bureau, accelerated receipt of funds by the Treasury, and a reduced burden for financial institutions. A key element of this pilot is an evaluation of the acceptance of this new delivery system by savings bond purchasers. The Ohio test is scheduled to continue through June 1988. If it is successful, we will begin plans to gradually shift to a regional delivery system for the entire nation.

In another area of the savings bond program, the Treasury has discontinued offering $50 and $75 savings bonds for new participants in payroll savings plans. This change will improve cost-effectiveness without damaging the program or significantly affecting the savings opportunities available to our customers. This change does not affect individuals currently purchasing $50 and $75 denominations through payroll deduction and the change does not apply to over-the-counter purchases of bonds.

Marketable and Special Securities

TREASURY DIRECT, our new securities processing system for book-entry bills, notes, and bonds is operational and running smoothly. This system was developed for investors who wished to purchase securities directly from Treasury and hold the securities to maturity. Public acceptance of the system has been very good. As of the end of January 1988, we had approximately 940,000 security accounts with a value of $23 billion in TREASURY DIRECT. The shift from paper certificates to the TREASURY DIRECT book-entry system has saved the Bureau 305 average positions, including the 59 reflected in our 1989 budget request.

National Economic Commission

The Bureau has a new responsibility this year to provide funding and accounting support for the National Economic Commission. The Commission was established by the Omnibus Reconciliation Act of 1987 to make recommendations regarding appropriate methods of reducing the Federal budget deficit and a means of ensuring that the burden of achieving the Federal budget deficit reduction goals is equitably distributed.

Government Losses in Shipment

The Government Losses in Shipment Act, originally enacted in 1937, established a self-insurance fund for Government valuables lost or damaged in shipment and for losses associated with savings bond redemptions. Funding for this account is handled in a separate appropriation managed by the Bureau. These funds are not tied to a specific fiscal year and are available until they are disbursed. Once the requirements of the Act are met, the obligation to make payments is non-discretionary. From time to time it is necessary to fund the account and our 1989 budget request of $960,000 will allow us to restore the account to an adequate level.

Mr. Chairman, the Bureau's budget request supports our policy objectives and will enable us to meet our responsibilities. Full funding will permit the Bureau to process budgeted workloads in a timely manner, to continue to improve service to investors, and to reimburse the Federal Reserve Banks for their services. Thank you for your consideration of our request. We will be glad to answer any questions that you and the members of your committee may have.

STATEMENT OF JERROLD B. SPEERS

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM PLEASED TO BE HERE TODAY TO PRESENT THE FISCAL YEAR 1989 BUDGET REQUEST FOR THE UNITED STATES SAVINGS BONDS DIVISION.

THE MISSION OF THE U. S. SAVINGS BONDS DIVISION IS TO INCREASE THE SALE AND RETENTION OF SAVINGS BONDS. THE SAVINGS BONDS PROGRAM PLAYS A POSITIVE ROLE IN THE REDUCTION OF THE NATIONAL DEBT BY PROVIDING SAFE AND EFFECTIVE MEANS FOR MILLIONS OF AMERICANS TO SAVE WHILE BROADENING PUBLIC OWNERSHIP OF THE NATIONAL DEBT.

THE DIVISION PROMOTES SALES IN BOTH THE OVER-THE-COUNTER AND PAYROLL SAVINGS MARKETS. FISCAL YEAR 1987 WAS AN OUTSTANDING YEAR FOR THE BOND PROGRAM. SALES EXCEEDED $10 BILLION, AND THE TOTAL AMOUNT OF BONDS OUTSTANDING REACHED $99 BILLION, THE HIGHEST IN THE HISTORY OF THE BOND PROGRAM. CURRENTLY OVER $102 BILLION OF SAVINGS BONDS ARE HELD BY THE AMERICAN PUBLIC, ANOTHER HISTORICAL HIGH. IT IS ESTIMATED THAT THE GOVERNMENT SAVES NEARLY $60 MILLION IN BORROWING COSTS FOR EVERY BILLION DOLLARS SOLD; IN FY 1987 ALONE, THE SALES OF SAVINGS BONDS SAVED THE GOVERNMENT OVER ONE-HALF BILLION DOLLARS IN BORROWING COSTS.

TO CONTINUE THIS PROGRESS IN FISCAL YEAR 1989, THE DIVISION IS REQUESTING A TOTAL BUDGET OF $18,880,000 AND 260 FTE POSITIONS. THIS BUDGET WILL FUND A FIELD SALES FORCE TO CARRY OUT PROMOTIONAL ACTIVITIES AND WILL CONTINUE THE DEVELOPMENT AND DISTRIBUTION OF PUBLIC SERVICE ADVERTISING MATERIALS TO INCREASE PUBLIC AWARENESS.

DURING FISCAL YEAR 1989 THE DIVISION'S MAIN OBJECTIVE WILL BE TO CONTINUE TO INCREASE BOTH OVER-THE-COUNTER AND PAYROLL SAVINGS SALES. WE WILL MAKE THE MOST COST EFFECTIVE USE OF EXISTING STAFF AND VOLUNTEER RESOURCES WHILE CONTINUING TO ENCOURAGE MORE PUBLICATIONS AND BROADCAST STATIONS TO USE OUR PUBLIC SERVICE ADVERTISEMENTS TO REINFORCE PUBLIC AWARENESS OF THE BENEFITS AND FEATURES OF SAVINGS BONDS.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THIS CONCLUDES MY STATEMENT. I WILL BE HAPPY TO RESPOND TO QUESTIONS YOU OR MEMBERS OF THE COMMITTEE MAY HAVE.

STATEMENT OF GERALD MURPHY

Mr. Chairman and Members of the Committee, I appreciate this opportunity to discuss with you the Fiscal Year 1989 resource requirements for the Bureau of the Public Debt. The Bureau's budget request for fiscal 1989 will enable the Bureau to meet its responsibilities for administering the public debt, while improving customer service and the cost effectiveness of the Public Debt programs.

As has been the case for the past few years, the Bureau's budget request reflects savings resulting from automation and management improvements. The bulk of this year's productivity savings are the result of implementing TREASURY DIRECT, our new securities processing system for Treasury bills, notes and bonds.

Mr. Chairman, I would like to underscore the importance of full reimbursement to the Federal Reserve Banks. The Bureau's budget request recognizes the importance of supporting the principal-agent relationship with the Federal Reserve. The Bureau's ability to reimburse the Federal Reserve Banks for the work they do in support of Public Debt programs is the key to the productive partnership that has been built over many years. Mr. Richard L. Gregg, the Commissioner of the Public Debt, will provide more detailed information on the Fiscal Year 1989 request for the Bureau of the Public Debt.

FISCAL YEAR 1989 APPROPRIATION REQUEST

Mr. GREGG. I appreciate this opportunity to discuss with you our fiscal year 1989 appropriation request for administering the public debt. This appropriation provides funds for both the Bureau of the Public Debt and the U.S. Savings Bonds Division. The requirements of the Savings Bonds Division will be discussed separately.

The total appropriation request for administering the public debt in fiscal year 1989 is $242.8 million. Of this total, the Bureau of the Public Debt is requesting $223,960,000 and 1,881 average positions. This is a net increase of $28.8 million over the fiscal year 1988 level, but a net decrease of 45 average positions. While our 1989 request is a 15-percent increase over our 1988 authorized level, it is an increase of only 1 percent, or $2.4 million, over our 1988 congressional request.

PROGRAM CHANGES

Our fiscal year 1989 budget request includes an increase of $26.9 million over our fiscal 1988 funding for reimbursements to the Federal Reserve Banks for their services. Since 1986, the Bureau has not been able to fully reimburse the banks because funds were withdrawn in anticipation of a legislative proposal to partially pay the Federal Reserve Banks from fees charged for certain services. Our 1989 request, if enacted, will return the Bureau to its 70-year policy of full reimbursement.

We are requesting an increase of 19 average positions and $5.8 million for increased workload in the savings bond program.

We have recently initiated several projects to improve the operation of the savings bond program. Our E-Z clear project, for example, will significantly improve the processing of paid bonds and produce savings in 1989 of $965,000 and five average positions.

Treasury direct, our new accounts maintenance system for marketable securities, is operational and running smoothly. As of the end of January 1988 we had approximately 940,000 security accounts with a value of $23 billion in Treasury direct. The shift from paper certificates to Treasury direct has saved the Bureau 305 average positions, including the 59 reflected in our 1989 budget.

GOVERNMENT LOSSES IN SHIPMENT

The Government Losses in Shipment Act established a self-insurance fund for Government valuables lost or damaged in shipment, and for losses associated with savings bond redemptions. Funding for this account is handled in a separate appropriation managed by the Bureau. These funds are not tied to a specific fiscal year and are available until they are disbursed. Our 1989 budget request of $960,000 will allow us to replenish the account to an adequate level.

Mr. Chairman, the Bureau's budget request supports our policy objectives and will enable us to meet our public debt program responsibilities.

Thank you for your consideration of our request. I would be glad to answer any questions that you and members of the committee may have.

Senator DECONCINI. Thank you, Mr. Gregg.

U.S. MINT

Senator DECONCINI. Now, I will turn to Ms. Donna Pope, Director of the mint, for your statement. Let me ask that they hand the microphone down to you.

Ms. POPE. Mr. Chairman and members of the committee, it is a pleasure to present for your consideration the fiscal year 1989 request for the U.S. Mint.

FISCAL YEAR 1987/1988 SUCCESSES

Before I summarize our 1989 request, I would like to discuss some of our major activities in the past, and highlight some of the successes we have had in 1987 and 1988, to give you kind of a background as to what the mint has been up to.

We produced approximately 12.7 billion coins for domestic circulation in 1987. This resulted in a net profit—for coinage, called seigniorage—to the Federal Government of $458 million.

In addition to that, the U.S. Constitution Coin Program has raised over $48 million in surcharges for deposit to the general fund of the Treasury. We are projecting an additional benefit of an operating profit of $22 million on the Constitution program.

You might be interested to know that the silver for the Constitution program comes from the strategic stockpile and the profit to the GSA stockpile from the program is $11.9 million on the sale of silver.

The American Eagle Gold Bullion Program continues into its second year of operation. Since its beginning, we have sold over 1.7 billion dollars' worth of gold on approximately 3.1 million ounces of gold in bullion uncirculated coins and 660,000 ounces of gold in proof coins.

Profit to date on the American Gold Eagle Uncirculated Program, which is the investment coin is approximately $28 million, and that includes profit on the repurchase of gold originally borrowed from Treasury reserves. The profit on the Eagle Proof Program is approximately $74 million.

The American Eagle Silver Bullion Program also continues into its second year with cumulative sales exceeding $165 million. We have sold over 15.3 million ounces of silver in bullion uncirculated coins and 2.3 million ounces in proof Eagle silver coins. Total profits to date for both the American Eagle uncirculated and proof programs are $22 million. The profit on the sale of that silver—which is the difference between the market value and Treasury's book value—is $89.6 million, and that profit goes to the GSA stockpile.

Our profit on the sale of annual proof and uncirculated sets has amounted to approximately $25 million, exceeding last year's profits by more than $9 million.

Our research and development projects continue to show productive gains, resulting in further savings to the Federal Government.

FISCAL YEAR 1989 BUDGET REQUEST

Our fiscal year 1989 budget request for salaries and expenses is $47,869,000 and 901 average positions. This budget request will allow the mint to produce 16.7 billion coins to satisfy projected demand requirements of 16.6 billion coins.

Our contribution to the Treasury for fiscal year 1989 operations is estimated at $650 million; $542 million of which will be seigniorage on domestic coin production, $78 million from the sale of numismatic items, which include the American Eagle proof coin, $9 million from the sale of American Eagle uncirculated gold and silver bullion coins, and $21 million on the sale of gold which will come from Treasury reserves that we will be using in the new fiscal year 1988 Olympic Coin Program.

Our 1989 budget increase of approximately $5.8 million is primarily composed of $3.1 million to increase coin production from 13.3 to 16.7 billion coin; $1 million for asbestos removal; and $1.3 million for equipment replacement and building improvements that were deferred as a result of fiscal year 1988 reductions. We feel that it would be extremely unwise to delay further the needed repairs and equipment replacement. Finally, the remainder of the requested increase involves mandatory cost of living increases and decreases for nonrecurring costs and productivity savings.

Our budget for fiscal year 1989 will be 2,306 FTE's, 901 for appropriated activities and 1,405 for reimbursable activities.

Senator DECONCINI. Could you summarize that for us, please?

PREPARED STATEMENT

Ms. POPE. I have just skipped a couple of paragraphs.

This is a reduction of 192 reimbursable FTE's and an increase of 46 appropriated FTE's. The decrease in reimbursable FTE's results from reductions in the Constitution and 1988 Olympic Coin Programs.

[The statement follows:]

STATEMENT OF DONNA POPE

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, IT IS MY PLEASURE TO PRESENT FOR YOUR CONSIDERATION THE FY 1989 BUDGET REQUEST FOR THE UNITED STATES MINT.

FY 1987/1988 SUCCESSES

BEFORE I SUMMARIZE OUR FY 1989 REQUEST AND DISCUSS MAJOR ACTIVITIES FOR FY 1989, I WOULD LIKE TO HIGHLIGHT A FEW FY 1987/1988 SUCCESSES:

--- WE PRODUCED APPROXIMATELY 12.7 BILLION COINS FOR DOMESTIC CIRCULATION IN FY 1987. THIS RESULTED IN A NET PROFIT TO THE FEDERAL GOVERNMENT OF $458 MILLION.

--- THE UNITED STATES CONSTITUTION COIN PROGRAM HAS RAISED OVER $48 MILLION IN SURCHARGES FOR DEPOSIT TO THE GENERAL FUND OF THE TREASURY. WE ARE PROJECTING THAT THE UNITED STATES TREASURY WILL BENEFIT BY AN OPERATING PROFIT OF $22 MILLION. THE SILVER FOR THE CONSTITUTION PROGRAM COMES FROM THE STRATEGIC STOCKPILE AND THE PROFIT TO THE GSA STOCKPILE IS $11.9 MILLION ON SILVER.

--- THE AMERICAN EAGLE GOLD BULLION PROGRAM CONTINUES INTO ITS SECOND YEAR OF OPERATION. SINCE ITS BEGINNING, WE HAVE SOLD OVER $1.7 BILLION WORTH OF GOLD ON APPROXIMATELY 3.1 MILLION OUNCES OF GOLD IN BULLION UNCIRCULATED COINS AND 660,000 OUNCES OF GOLD IN PROOF COINS. PROFIT TO DATE ON THE AMERICAN EAGLE UNCIRCULATED PROGRAM IS APPROXIMATELY $28 MILLION WHICH INCLUDES THE PROFIT ON THE REPURCHASE OF GOLD ORIGINALLY BORROWED FROM TREASURY RESERVES. PROFIT TO DATE ON THE AMERICAN EAGLE PROOF PROGRAM IS APPROXIMATELY $74 MILLION.

--- THE AMERICAN EAGLE SILVER BULLION PROGRAM ALSO CONTINUES INTO ITS SECOND YEAR WITH CUMULATIVE SALES EXCEEDING $165 MILLION. WE HAVE SOLD OVER 15.3 MILLION

OUNCES OF SILVER IN BULLION UNCIRCULATED COINS AND 2.3 MILLION OUNCES OF SILVER IN PROOF COINS. TOTAL PROFITS TO DATE FOR BOTH THE AMERICAN EAGLE UNCIRCULATED AND PROOF PROGRAMS ARE APPROXIMATELY $22 MILLION. THE PROFIT ON THE SALE OF THIS SILVER TO DATE, WHICH IS THE DIFFERENCE BETWEEN MARKET VALUE AND TREASURY'S BOOK VALUE, IS $89.6 MILLION. THIS PROFIT GOES TO GSA.

--- PROFIT ON THE SALES OF PROOF AND UNCIRCULATED SETS HAS AMOUNTED TO APPROXIMATELY $25 MILLION, EXCEEDING LAST YEAR'S PROFITS BY MORE THAN $9 MILLION.

--- OUR RESEARCH AND DEVELOPMENT PROJECTS CONTINUE TO SHOW PRODUCTIVE GAINS, RESULTING IN FURTHER SAVINGS TO THE FEDERAL GOVERNMENT.

FY 1989 BUDGET REQUEST

THE MINT'S FY 1989 BUDGET REQUEST FOR SALARIES AND EXPENSES IS $47.869 MILLION AND 901 AVERAGE POSITIONS.

THIS BUDGET REQUEST WILL ALLOW THE MINT TO PRODUCE 16.7 BILLION COINS. THIS PRODUCTION WILL SATISFY PROJECTED DEMAND REQUIREMENTS OF 16.6 BILLION COINS.

OUR CONTRIBUTION TO THE TREASURY FOR FY 1989 OPERATIONS IS ESTIMATED AT $650 MILLION; $542 MILLION OF WHICH WILL BE SEIGNIORAGE ON DOMESTIC COINS, $78 MILLION WILL BE FROM THE SALE OF NUMISMATIC ITEMS WHICH INCLUDE THE AMERICAN EAGLE PROOF COINS, $9 MILLION FROM THE SALE OF AMERICAN EAGLE UNCIRCULATED GOLD AND SILVER BULLION COINS, AND $21 MILLION FROM PROFIT ON SALE OF GOLD CONTAINED IN OLYMPIC COINS.

THE MINT'S FY 1989 BUDGET INCREASE OF APPROXIMATELY $5.8 MILLION IS PRIMARILY COMPOSED OF: $3.1 MILLION TO INCREASE COIN PRODUCTION FROM 13.3 TO 16.7 BILLION COINS; $1 MILLION FOR ASBESTOS REMOVAL; AND, $1.3 MILLION FOR EQUIPMENT REPLACEMENT AND BUILDING IMPROVEMENTS THAT WERE DEFERRED AS A RESULT OF FY 1988 REDUCTIONS. IT WOULD BE

UNWISE TO DELAY FURTHER NEEDED REPAIRS AND EQUIPMENT REPLACEMENT. FINALLY, THE REMAINDER OF THE REQUESTED INCREASE INVOLVES MANDATORY COST OF LIVING INCREASES AND DECREASES FOR NON-RECURRING COSTS AND PRODUCTIVITY SAVINGS.

ASBESTOS REMOVAL

WE CONDUCTED AN INDEPTH SURVEY OF THE DENVER MINT TO DETERMINE THE NEED FOR ASBESTOS REMOVAL. BASED ON THAT SURVEY, WE DEVELOPED A PLAN FOR REMOVAL AND USED $325,000 IN FY 1987 TO IMPLEMENT THE PLAN. OUR FY 1988 BUDGET CONTAINS $1.500 MILLION TO CONTINUE THE ASBESTOS ABATEMENT EFFORT.

FOR FY 1989, WE ARE REQUESTING $2.5 MILLION TO CONTINUE THE ASBESTOS REMOVAL IN DENVER. AS YOU CAN APPRECIATE, ASBESTOS REMOVAL IS ESSENTIAL.

RESEARCH AND DEVELOPMENT PROJECTS

THE MINT'S FY 1989 REQUEST INCLUDES $665,000 FOR RESEARCH AND DEVELOPMENT, TO REMAIN AVAILABLE UNTIL EXPENDED. IN FISCAL YEARS 1985-1986, WE BEGAN THE RESEARCH AND DEVELOPMENT PROJECTS WITH A VIEW OF ENHANCING THE PRODUCTIVITY OF OUR PRODUCTION EQUIPMENT AND PROCESSES. TO DATE WE: ARE CONTINUING TO DEVELOP AND TEST AN IMPROVED COIN PRESS FEED SYSTEM; HAVE PURCHASED MODERN COMPUTER NUMERIC CONTROL EQUIPMENT FOR THE DIE SHOP; AND ARE MAKING PROGRESS ON USING A ROBOT TO STACK COIN BAGS ONTO PALLETS. THE BUDGET REQUEST IN FY 1989 WILL ALLOW FOR THE CONTINUATION OF THIS PROGRAM.

EQUIPMENT ACQUISITION

OUR EQUIPMENT ACQUISITION PLAN INCLUDES FUNDS FOR THE REPLACEMENT OF WORN-OUT, OBSOLETE EQUIPMENT. OUR REQUEST OF $2.344 MILLION INCLUDES SUCH ITEMS AS A DIE HUBBING PRESS, AN ANNEALING FURNACE, FORK LIFTS, LATHES AND GRINDERS.

PERSONNEL

OUR BUDGET REQUEST FOR FY 1989 WILL BE 2,306 FTE's: 901 FOR APPROPRIATED ACTIVITIES; AND 1,405 FOR REIMBURSABLE ACTIVITIES. THIS IS A REDUCTION OF 192 REIMBURSABLE FTE's AND AN INCREASE OF 46 APPROPRIATED FTE's. THE DECREASE IN REIMBURSABLE FTE'S RESULTS FROM REDUCTIONS IN THE CONSTITUTION AND 1988 OLYMPIC COIN PROGRAMS. THE ADDITIONAL FTE'S FOR APPROPRIATED ACTIVITIES ARE A RESULT OF NECESSARY INCREASES IN COIN PRODUCTION.

REIMBURSABLE OPERATIONS

THE MINT'S RECURRING REIMBURSABLE PROGRAMS FOR FY 1989 WILL HAVE AS THEIR BASE THE ANNUAL PROOF COIN SETS, ANNUAL UNCIRCULATED COIN SETS, CONGRESSIONALLY AUTHORIZED MEDALS, AND THE AMERICAN EAGLE GOLD AND SILVER BULLION PROGRAMS. ADDITIONALLY, OUR REIMBURSABLE OPERATIONS WILL INCLUDE THE RECENTLY-LEGISLATED OLYMPIC COIN PROGRAM. ALL PRODUCTION OPERATIONS AND SALES ACTIVITIES RELATED TO THESE PROGRAMS WILL BE FINANCED FROM REIMBURSABLE FUNDS.

EXISTING COMMEMORATIVE AND NEWLY LEGISLATED COIN PROGRAMS

THE CONSTITUTION COIN PROGRAM WILL BE COMPLETED DURING FISCAL YEAR 1988. THE OLYMPIC COIN PROGRAM AUTHORIZES THE MINTING OF FIVE DOLLAR GOLD AND ONE DOLLAR SILVER COINS IN PROOF AND UNCIRCULATED CONDITION TO HELP SUPPORT THE AMERICAN ATHLETES IN TRAINING AND IS SCHEDULED TO END IN 1989.

ANNUAL PROOF AND UNCIRCULATED COIN SETS

THE MINT EXPECTS TO PRODUCE AND TO SELL APPROXIMATELY 3.1 MILLION PROOF COIN SETS AND 1.6 MILLION UNCIRCULATED SETS DURING FY 1989.

SUMMARY

IN SUMMARY, THE MINT IS REQUESTING FOR FY 1989 AN APPROPRIATED SALARIES AND EXPENSES BUDGET OF $47.869 MILLION THAT WILL PROVIDE FOR: (1) EXPECTED COIN DEMAND; (2) CONTIN-

UATION OF THE ASBESTOS REMOVAL PROGRAM; (3) CONTINUED RESEARCH AND DEVELOPMENT TO IMPROVE COINING PROCESSES; AND (4) REPLACEMENT OF WORN-OUT AND OBSOLETE EQUIPMENT.

I SINCERELY APPRECIATE THE SUPPORT THAT THIS COMMITTEE HAS GIVEN THE UNITED STATES MINT PROGRAMS IN THE PAST AND LOOK FORWARD TO WORKING WITH YOU.

THIS CONCLUDES MY PREPARED REMARKS. I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

SAVINGS BOND PROMOTION

Senator DECONCINI. Thank you very much.

Mr. Gregg, your data show that savings bond sales are doing extremely well, and that in fiscal 1989 there may be an additional 6 million savings bond sales.

It seems to me that if the savings bond program is doing so well because of the attractive interest rate and their inherent low risk, you should be able to cut back your sales promotion operations substantially. I would think that you would need a larger sales promotion staff when savings bond sales are flat or in decline, as they were several years ago.

Why can't you cut your sales promotion budget next year in view of the fact that savings bond sales are booming?

Mr. GREGG. I will defer the question on the sales to Mr. Speers.

I would like to add, however that, we are asking for 19 additional FTE's to handle the workload that those additional bonds will be bringing in.

Senator DECONCINI. What about the promotion staff, Mr. Speers?

Mr. SPEERS. Thank you, Mr. Chairman.

In fact, we are cutting back 13 FTE's, from 273 to 260. I would like to make the point, however, that in promotion of sales, the Savings Bonds Division depends entirely upon public service advertising, and public service announcements. We do not have a budget for the actual purchase of television or print media time.

The promotional budget that we do have is devoted almost entirely to the actual printing of materials for distribution, and also to an advertising agency to put together the television ads that we run.

Senator DECONCINI. We don't do any promotional work?

Mr. SPEERS. We do not have any budget for an actual purchase of time on television.

Senator DECONCINI. What about promoting, do you have people who go out and promote the bond sales, designated to that purpose solely?

Mr. SPEERS. Yes, sir; we have individuals in the field who are conducting promotional campaigns within the various companies that have Federal savings bond programs. They also contact the media to convince them to play our promotional materials as a part of public service advertising.

FULL REIMBURSEMENT TO THE FEDERAL RESERVE BANKS

Senator DECONCINI. Last year, Mr. Gregg, you were requesting $37.3 million for full reimbursement to the Federal Reserve Banks. This year, you are requesting $23.4 million for full Federal Reserve Bank reimbursement.

Last year, the committee cut your request back to $14 million, or 38 percent of your total request. Neither your statement nor Mr. Murphy's statement indicate that there has been any dramatic change in the Bureau's relationship with the Federal Reserve Banks as a result of the banks not receiving full reimbursement. Our rationale for making this cut was, since the banks bring $14 billion, net of operating expenses, into the Treasury each year, that forcing the Federal Reserve Banks to absorb less than 1 percent of this amount was justified in light of our budget situation.

Why can't we make the same argument this year?

Mr. GREGG. Mr. Chairman, I think that it is important to subject the expenditures to departmental, OMB, and congressional review as part of the overall congressional appropriation process. That is one of the reasons why we keep going back and asking for the funds.

Second, I think that it is important to report the total costs for administering the public debt under a single appropriation.

Finally, I think that the reimbursement provides Treasury's control over the performance of Federal Reserve Banks, acting as their fiscal agents. The work that they do for public debt is extremely important. It is almost one-third of our budget. The relationship that we have is, I think, reinforced substantially by having us pay the banks.

The funds that they return to Treasury at the end of each year are large dollar amounts, but they really don't have anything to do with their allocation of resources and setting priorities within the Federal Reserve System.

EFFECT ON RELATIONSHIP WITH FEDERAL RESERVE BANKS

Senator DECONCINI. What would be the specific effects on your relationship with the Federal Reserve Banks if you were only given 40 or 50 percent of your $23.4 million request?

Mr. GREGG. It makes it very difficult, when we are starting new initiatives, new projects, and trying to get the commitment from the Federal Reserve System, and through the Federal Reserve Board of Governors, to have them go forward and allocate the kind of resources that are needed for some large projects that we have underway.

If nothing else, what it does is lend another question that has to be looked at and resolved. Usually, it ends up going the right way, but taking 6 months to 1 year longer before we can get through the process.

Senator DECONCINI. Does it help you at all to come up here and fight for it, and then we are the bad guys that don't do it?

Mr. GREGG. I think that one of the things that we want to clearly do is to establish a record that we do support the full reimbursement of the Federal Reserve Banks. The assistance that we got last year from this committee, which helped us go part of the way, was appreciated. What I would like to do is to get us all the way back, and not have to come up here and talk about it next year.

Actually, had it not been for the last year's cut of $23.4 million, the increase we are seeking for the Federal Reserve Banks would only be several million more dollars than last year. Our costs are not significantly increased; rather we are trying to reestablish the position we held in 1986 prior to the OMB cuts taken in anticipation of offsetting fee legislation that never materialized.

U.S. MINT PRODUCTIVITY SAVINGS

Senator DECONCINI. Thank you.

Ms. Pope, your budget justifications show that you will be able to achieve a savings of $565,000 and 20 positions next year due to savings resulting from productivity improvements at the mint.

My compliments to you. What is your secret? How are you going to be able to achieve those savings through productivity improvements?

Ms. POPE. The mint had never had any real work standards, no standards against which the employees could really be measured. We hired a consulting firm several years ago who took a look at how we were operating, and the firm made some recommendations. In some cases simply moving equipment around, and frankly, in one facility, having one man watch more coin presses than they had in the past resulted in significant savings. We spent $500,000 approximately for the consulting service, and we have already saved $565,000.

Senator DECONCINI. This is not OMB just arbitrarily telling you to reduce your slots?

Ms. POPE. Not in this case.

Senator DECONCINI. It is for real?

Ms. POPE. Yes.

Senator DECONCINI. Congratulations.

U.S. MINT PROFITABILITY

It occurred to me that the U.S. Mint is one of the most profitable operations in the Federal Government. Your coin program for domestic use raised $458 million. Your U.S. Constitution coin has realized a profit of $22 million. The American Eagle program brings in $74 million.

If the mint is making this kind of money on its operation, why should we appropriate any salaries and expense money to you? Why not let you take your operating costs out of the profits that you make on the sale of coins. Has that been discussed with OMB or anybody?

Ms. POPE. To the best of my knowledge, there were some studies conducted many years ago about having the mint become totally reimbursable because some of our operations, of course, are reimbursable, but we still have to come before Congress for the appropriated moneys.

Some of the major mints in the world are more or less crown corporations and are on revolving funds. That seems to work very well for them. I don't think there has ever been, at least during my tenure, which began in 1981, any serious discussions with OMB on that.

Thank you for your compliments. That is why I go on and on at length in my statement—to let you know what a profitmaking agency we are.

Senator DECONCINI. We are aware of it. We appreciate the fine work you and your people do.

REVOLVING FUND

Ms. POPE. To be on a revolving fund basis would allow the mint to do some planning for the future. It is very difficult now to never know for sure what the appropriation is going to be when it comes to buying equipment and that sort of thing.

Senator DECONCINI. The Senator from New Mexico.

ONE DOLLAR BILLS

Senator DOMENICI. Mr. Chairman, again with reference to the mint and Treasury, I will submit a series of questions. If they are more Treasury's than yours, I hope you will cooperate in an effort to answer. They have to do with the $1 bill, and what should we be doing about the enormous number of $1 bills we are having to print, and then, within 18 months, get rid of by shredding and destruction, which is costing us an awful lot of money.

NATIONAL ECONOMIC COMMISSION

Let me just ask one question of the Bureau of the Public Debt. The 1989 budget request includes $700,000 for the newly created National Economic Commission. I happen to have been appointed to that, and I am just wondering, are we going to handle that by just leaving the money in Treasury until that Commission has its own system set up and then let them draw on it, or do you know?

Mr. GREGG. I am really not sure, Senator. It is in our appropriation. What we have been asked to do is to stand ready to pay funds out under that appropriation as required.

Senator DOMENICI. All right.

Ms. TUCK. We have set up an account, or we are in the process of setting up an account. It will be funded this year out of Departmental Offices, and it will be funded by the Bureau of the Public Debt in the second year. We are negotiating to see what responsibilities the Treasury will have.

Senator DOMENICI. Would you identify yourself?

Ms. TUCK. My name is Nancy Tuck, and I am with the Departmental Offices of the Treasury.

Senator DOMENICI. Thank you very much.

CURRENCY AND COIN STUDY

Mr. Chairman, I don't expect the mint to answer these questions. I just want to share with you and hope to remind them and Treasury that a study of Senate bill 1742, to provide for an updating of our currency and the minting of a gold colored dollar coin, is supposed to be completed by June 30. This is to involve an in-depth evaluation of what it might mean for our country if we did that, what other countries have done, and what it is now costing, because the $1 bill is such an enormous part of the overall operation of the Federal Reserve in terms of coinage.

I don't know that very many people know that we printed about 3.2 billion dollar bills a year, and about 18 months later, we are destroying them. It seems to us that we are spending a huge amount of money for this $1 bill when almost all of our counterparts in the free world have substituted a coin for it. We hope that you will proceed with the study and get it to us. I hope there is no bias in advance, and that you just answer questions requested of that study by the Congress.

Did you have anything to add on that?

Ms. POPE. I was simply just going to say that there is a task force put together of the Departmental Offices, the mint, and the Bureau of Engraving and Printing, which is in the process of doing that particular study. It certainly is an unbiased study. I suppose one could speculate that one bureau would favor and one bureau not, but it is a totally unbiased study.

I do hope that we will have an opportunity at some point to talk about the technicalities of the bill which, of course, is a major concern of the mint's putting policy questions aside.

SEIGNIORAGE

Senator DOMENICI. Could you tell us what seigniorage is? What does seigniorage mean?

Ms. POPE. Actually, the simple explanation is that it is the profit on making circulating coins. For example, it costs a little over a penny to make a dime, so about 9 cents is really profit. However, since there is no corresponding payment, it is not treated as a receipt but, rather, is used to reduce the national debt much like borrowing is.

SUSAN B. ANTHONY DOLLARS

Senator DOMENICI. I am told that if we melt the Anthony dollars down, there is going to be a reverse seigniorage and we are going to lose a lot of money. Is that correct?

Ms. POPE. That is right. The profit or seigniorage was taken on the Anthony dollar in 1979 and 1980 when they were produced. If we melt them all down, then we are left with a little over 2 cents worth of metal, and we will have taken a loss.

Senator DOMENICI. I wonder if I might just add to the request formally here that as part of the evaluation of the need or not for a new dollar coin, if the study would evaluate whether we could save some of that seigniorage less on the Anthony dollar by tradein.

I have no idea of knowing the answer, but we will lose $500 million on the seigniorage of the Anthony dollar, and I just hope that we take into consideration all prospects of swapping or exchanging in terms of diminshing that.

Mr. Chairman, I would like to ask you to add to the record, at the end of my request, some correspondence and communications with reference to the new coinage bill. The Department of the Treasury and others have answered partially some of our questions, and I would like to make them part of the record.

Senator DeConcini. We will make them part of the record.

[The information follows:]

FACT SHEET

COINAGE REFORM LEGISLATION

(October 13, 1987)

- LEGISLATION BEING INTRODUCED REQUIRES THE MINTING OF A **GOLD-COLORED DOLLAR COIN** AND A STUDY OF THE ADVISABILITY OF PHASING OUT THE PENNY AND THE HALF DOLLAR COINS.

- THE LEGISLATION DOES NOT REQUIRE THE WITHDRAWAL OF THE DOLLAR BILL. THE BANKING COMMITTEE NEEDS TO HEAR THE EXPERTS ON THIS AND DECIDE ON THE MERITS OF THIS ISSUE.

- THE COIN WILL BE DESIGNATED AS THE CHRISTOPHER COLUMBUS DOLLAR COIN.

- THE **COIN COLOR IS CRITICAL** TO ITS ACCEPTANCE TO CONSUMERS. JAPAN, ENGLAND, NORWAY, AUSTRALIA, AND MOST RECENTLY CANADA HAVE INTRODUCED GOLD COLORED COINS. THE FAILURE OF THE SUSAN B. ANTHONY DOLLAR IS LARGELY ATTRIBUTED TO ITS SIMILARITY TO THE QUARTER, SIZE AND COLOR.

- EVERY YEAR THE U.S. PRINTS 3.2 BILLION DOLLAR BILLS.

- WITHIN A YEAR, THEY ARE DIRTY, TORN, STAINED, AND CRUMPLED. EIGHTEEN MONTHS LATER THEY ARE TAKEN OUT OF CIRCULATION AND END UP SHREDDED.

- THIS 18-MONTH CYCLE COSTS THE TAXPAYER A LOT OF MONEY--ABOUT **$127 MILLION A YEAR.**

- DUE TO THE 20 YEAR LIFE OF THE COIN, COMPARED TO 18 MONTH LIFE CYCLE OF THE DOLLAR BILL, AND OTHER COST DIFFERENCES, **$117 MAY BE SAVED EACH YEAR.**

  $75 MILLION SAVED DUE TO LONGER LIFE OF THE COIN.

  $39 MILLION SAVED DUE TO REDUCED COSTS OF TRANSPORTING CURRENCY FROM THE U.S. MINT TO FEDERAL RESERVE BANKS.

  $3 MILLION SAVED DUE TO ELIMINATION OF SHREDDING COSTS.

- THIS IS TRUE EVEN THOUGH A DOLLAR BILL COSTS 2.6 CENTS TO PRINT; AND COIN COSTS 3.5 CENTS TO FABRICATE. THE CRITICAL FACTOR IS THE LONGER LIFE OF THE COIN. IT MEANS WE NEED TO MINT FAR FEWER DOLLAR COINS THAN DOLLAR BILLS EACH YEAR.

- MINTING DOLLAR COINS WOULD USE ENOUGH COPPER TO KEEP ONE ADDITIONAL DOMESTIC MINE OPEN. THIS IS ROUGHLY EQUIVALENT TO ONE PERCENT OF COPPER CONSUMPTION IN THE UNITED STATES.

- USE OF A DOLLAR COIN VIRTUALLY ELIMINATES THE NEED FOR EXPENSIVE BILL CHANGERS AND ACCEPTORS. BILL CHANGERS COST ABOUT $2,400 EACH AND RETROFITTING A VENDING MACHINE TO ACCEPT PAPER CURRENCY COST $400 PER MACHINE. IN EITHER CASE, THE COSTS ARE PASSED ON TO THE CONSUMER.

- RETROFITTING OF MASS TRANSIT SYSTEMS IS ALSO EXPENSIVE. CLEVELAND, WASHINGTON, AND CHICAGO HAVE SPENT $5.0 MILLION, $8.7 MILLION, AND $15.0 MILLION RESPECTIVELY RETROFITTING FARE MACHINES ON BUSES.

- THE PURCHASING POWER OF OUR COINS HAS CHANGED CONSIDERABLY SINCE 1950. TODAY IT REQUIRES A DOLLAR TO PURCHASE WHAT A QUARTER WOULD IN 1950. IT'S DIFFICULT TO FIND ANYTHING TODAY THAT MAY BE PURCHASED FOR A PENNY!

- COSPONSORS OF THE BILL INCLUDE: SENATOR DECONCINI, SENATOR WARNER, SENATOR D'AMATO, SENATOR MELCHER, SENATOR LUGAR, AND SENATOR KERRY.

- MEMBERS OF THE COIN COALITION SUPPORTING THE LEGISLATION INCLUDE: THE AMERICAN AMUSEMENT MACHINE ASSOCIATION, COPPER AND BRASS FABRICATORS COUNCIL INC., THE COPPER DEVELOPMENT ASSOCIATION, NATIONAL ASSOCIATION OF CONVENIENCE STORES, NATIONAL AUTOMATIC MERCHANDISING ASSOCIATION, NATIONAL PACKAGING ASSOCIATION AND THE RP FOUNDATION FIGHTING BLINDNESS.

July 31, 1987

Dear Pete:

This responds to your letter of June 10 to the Director of the Mint, Donna Pope, requesting cost information for one dollar notes and coins for your study of coinage reform. We support your efforts to find ways to reduce the Federal deficit and more efficiently use taxpayers' money. We also would appreciate the opportunity to comment on any legislation that would affect Treasury programs.

The information you requested is provided below:

"(1) The current, fiscal years 1985 and 1986, storage costs associated with the uncirculated Susan B. Anthony dollar coins."

Total Storage Cost for
Susan B. Anthony Coins

FY 1985	FY 1986	FY 1987
$24,884	$26,512	$28,605

Of the 345 million Susan B. Anthony coins remaining in storage, 223 million are part of a regular coin storage in U.S. Mint vaults. The remaining 122 million are stored for the Mint in the Denver Branch of the Kansas City Federal Reserve Bank, which is reimbursed for the service.

"(2) The current, fiscal years 1985 and 1986, printing costs for the dollar bill, including total and per unit costs."

In fiscal years 1985 and 1986, total printing costs for the dollar bill were $72.7 million and $81.2 million, respectively. In FY 1987, total printing costs are estimated at $84.0 million.

In fiscal years 1985 and 1986, per unit printing costs for the dollar bill were $0.0255 and $0.026, respectively. In FY 1987, per unit printing costs are estimated at $0.026.

"(3) The current, fiscal years 1985 and 1986, circulation life of the dollar and associated circulation costs."

The current circulation life of a dollar bill is approximately 18 months.

Circulation costs are a rough estimate by the Federal Reserve Board of transportation costs incurred in the distribution of the dollar bill. In fiscal years 1985 and 1986, as well as in FY 1987, circulation costs for the dollar bill are estimated at about $40 million.

"(4) Estimates of the current cost of minting and circulating a dollar coin and the circulation life of such a coin."

We do not have the current cost of minting a dollar coin, but a rough estimate can be made based on the production costs for the Susan B. Anthony dollar coin.

Minting Cost

	FY 1980	Estimate FY 1987
Average Per Unit Production Cost:	$0.0310*	$0.0350**

* Based on Susan B. Anthony coin.

** Calculated by increasing the average annual cost by the OMB inflator.

We do not have the current cost of circulating a dollar coin, but the cost of transporting a dollar coin from a Mint facility to a Federal Reserve Bank via a private sector armored carrier is roughly estimated to be less than 0.5 cents.

Although we have no actual history on the full circulation life of a Susan B. Anthony coin, the Mint estimates that such a coin will circulate for at least 20 years.

In response to your request for studies of the cost differences between the production and use of paper and coin currency, a Department study, "An Assessment of United States Currency and Coin Systems With Long Range Planning Recommendations" (September 1979) is enclosed.

If we can be of further assistance, please let me know.

Sincerely,

Katherine

Katherine D. Ortega
Treasurer of the United States

The Honorable Pete V. Domenici
United States Senate
Washington, D.C. 20510

November 25, 1987

Ms. Kathy Maloney
Office of The Honorable Pete V. Domenici
United States Senate
Washington, D.C. 20510

Dear Ms. Maloney:

Thank you for your inquiry of September 30 regarding the disposal of old dollar bills.

Dollar bills accounted for 33 percent of the currency handled by the Federal Reserve Banks in 1986. Activities involved in currency handling include receipt and verification of currency deposits from depository institutions, destruction of unfit currency, and payment of new and fit currency to depository institutions.

In 1986, 2.74 billion one dollar notes were destroyed. Of these worn out notes, 99 percent (2.47 billion notes) were shredded using the Federal Reserve's high speed currency processing machines. These machines verify currency deposits from depository institutions, detect counterfeits, and sort the currency for quality. Currency fit for further use is automatically strapped in packages of 100 notes for recirculation to depository institutions. The unfit currency is destroyed by a shredding system in the currency processing machines. In 1986, the cost of destroying one dollar notes in this way was $6.0 million.

The remaining unfit currency (273 million notes) was in such poor condition that the notes could not be processed on the high speed equipment. These dollar notes were destroyed by using other Treasury-approved destruction equipment that reduces the currency to a residue that cannot be used for fraudulent purposes. This method of destruction cost $1.6 million.

The cost figures above include disposal at a landfill since most Reserve Banks combine the residue and the shredded currency from the high speed operation and dispose of everything in this manner. The cost for disposal was about $400 thousand or 5 percent of the total destruction cost.

Destruction costs are only about 7 percent of the overall cost to the Federal Reserve for handling one dollar notes. In 1986, the total expenditure for handling one dollar bills was $109.9 million. This represented approximately 43 percent of the Federal Reserve's cost for all of its currency handling activities.

We have no studies concerning alternative disposal methods. However, we understand that you have been in contact with Mr. Rudy Villarreal of the Treasury's Office of Currency Standards and that he is providing you with this information.

I hope this information is helpful. Please let me know if I can be of further assistance.

Sincerely,

Donald J. Winn
Assistant to the Board

GOLD SOURCES

Senator DeConcini. I also have some questions from Senator Byrd, and other questions that I will submit to you.

The Senator from Maryland.

Senator Mikulski. Thank you.

I have just two questions for the mint. Where do we get our gold? Specifically, does any of the gold for our coins come from South Africa?

Ms. Pope. No; it does not come from South Africa. It depends on what coinage program. For the commemorative coin program, the Olympic coin program, the Constitution coin program, the Statue of Liberty coin program, the gold comes from the Treasury reserves, and that is why you see profit on the sale of gold.

For the American Eagle Bullion Program, which is a very successful bullion program, the legislation mandated that we should use newly mined U.S. gold as long as it is available at the average world price. When it is not available to us, then the Secretary of the Treasury may use Treasury reserves. His decision was to use Treasury reserves in combination with buying it on the open market from GATT countries, signatories to the GATT agreement which, of course, eliminates South Africa and Russia.

By the way, of the gold that we have used for the Eagle program, 83 percent was newly mined U.S. gold. We bought over one-half of the gold mined in the United States last year. The miners are delighted with the program. About 9 percent comes from Treasury reserves, and the rest comes from GATT countries.

SAVING THE SUSAN B. ANTHONY

Senator Mikulski. My last question, the Susan B. Anthony coin was a disaster much to my regret, but it was primarily a disaster because of the size, and not because Susan B. Anthony was on it. I wonder if during the interim, as we explore a new, larger coin, rather than melting down Susan B., is there any way that we would give her a facelift with a new color or something that will make it obvious it is $1 in value?

Ms. Pope. Certainly, we could do that if authorized.

Senator Mikulski. I just wonder if there has been any thought about that, to do some sort of color coat as an interim coin, which wouldn't require us to take the $500 million loss, and get her back in circulation.

Ms. Pope. It has been most often suggested dipping her in gold, which could be an expensive proposition.

Senator Mikulski. Knowing of Miss Anthony, she has no need to be glitzy. [Laughter.]

She just wants to be in circulation.

Ms. Pope. I understand.

We can take a look at that. At the moment, we are studying the legislation that has been introduced into the House and the Senate, which I might add by the way, Mr. Chairman, as we read the legislation, it seems to indicate that it would be the same specifications as the Susan B. Anthony dollar.

Senator MIKULSKI. Which is the same mess. Am I accurate in saying that this is why Susan was a disaster?

Ms. POPE. The experience was that there was confusion with the quarter. Even I was confused.

Senator DECONCINI. If the Senator would yield.

Would changing the color make that much difference when the size is the problem?

Ms. POPE. I don't know. I would suspect not.

Senator MIKULSKI. Mr. Chairman, a strong color like a green, a blue, or something like that might make a significant difference.

Senator DECONCINI. Thank you very much.

ADDITIONAL COMMITTEE QUESTIONS

There will be some additional questions, to which were referred earlier, which we will submit to you for your response.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

BUREAU OF THE PUBLIC DEBT

ADDITIONAL COMMITTEE QUESTIONS

INFLATIONARY INCREASE FOR FRB SERVICES

You are requesting $1,686,000 to cover your estimate of an inflationary increase for the Federal Reserve Banks services provided to the Bureau.

QUESTION: Have the Federal Reserve Banks actually requested this type of increase and if not, why should we approve this increase? And what would be the effect on your operations and your relationship with the FRB if we were to deny this inflationary increase for fiscal year 1989?

ANSWER: As a part of our budgetary process we estimate workload requirements and ask the Federal Reserve Banks to provide the Bureau with cost estimates which reflect productivity improvements and savings, but do not include inflation. After reviewing the program changes and costs, the Bureau applies inflationary increases which reflect the economic assumptions provided by the Office of Management and Budget. For the fiscal year 1989 budget process, the estimated rate of inflation was 3.9 percent. Because of savings in operations, the net increase required in the FY 1989 budget for inflationary costs in the Federal Reserve Banks is approximately 2.3 percent.

Denial of the requested increase for inflation would undermine the principle of paying for services received and weaken our long-term productive relationship with the Federal Reserve.

REPROGRAMMING REQUESTS

In both the Bureau and Savings Bond Division justifications you indicate your intention to reprogram funds within your fiscal 1988 budget to do things not originally planned for when you put your fiscal 1988 budget together. Clearly, both reprogrammings fall within the requirements set by the Committee for advance approval of reprogrammings.

QUESTION: When can we expect to receive your formal request for approval of your reprogrammings?

ANSWER: Reprogramming guidelines in the Appropriations Bill directed that the approval of both the House and Senate Appropriations Committees would be required for those reprogramming requests that exceed $500,000 or 10 percent, whichever is greater, in any object class, budget activity, program line item, or program activity. Recognizing that our request was within the requirements as set forth by the Congress, the Bureau is seeking approval of the requested reprogramming actions from the Committee through the formal Budget process. Therefore, the need for reprogramming has been reflected on pages PD-1 through PD-3 of our fiscal year 1989 Congressional submission.

ANNUALIZATION OF JANUARY, 1988 PAY RAISE

Most of the Treasury bureaus are being asked to absorb half of the cost of the January, 1989 pay raise coming up, but most of the agencies are receiving the full cost of annualizing the January, 1988 pay raise in fiscal 1989. Yours is $1.1 million.

QUESTION: What would be the effect on your operations if we were to direct your agency and our other agencies to absorb 50 percent of the January, 1988 annualization cost?

ANSWER: The Bureau's FY 1989 Congressional Budget is only 1 percent more than the FY 1988 request. Savings have already been identified where they could be taken in personnel and other costs. The budget request before you is extremely lean and it would be difficult to absorb increases or take further reductions without having an adverse effect on our programs.

The Bureau's direct operating costs account for only 36.3 percent of the appropriation request. The remainder is composed of payments to our agents and other fixed costs associated with our programs. If the Bureau is required to absorb 50 percent of the FY 1988 annualization cost we could be forced into a situation where necessary operating costs for things like overtime were unfunded. If this was the case backlogs and customer service problems could result.

NATIONAL ECONOMIC COMMISSION

Your budget includes $700,000 to fund the National Economic Commission -- a group established to make recommendations on how we can reduce the Federal budget deficit, while promoting economic growth and encouraging savings and capital formation.

QUESTION: Since this group is setting an example as to how we can cut the deficit, why shouldn't we direct your Bureau to absorb the cost of the Commission, rather than get a new appropriation to cover their expenses?

ANSWER: The National Economic Commission was established to make recommendations regarding ways of reducing the Federal deficit. A final report is due in FY 1989 and the Commission will cease to exist thirty days after it submits that report to the President and to Congress. The Bureau of the Public Debt has been tasked with providing funding for the Commission on a one-time basis. The Commission and its responsibilities are not a part of the operations of the Bureau of the Public Debt. As I have indicated, this budget is a lean one and we cannot absorb the cost of the Commission without unavoidable damage to our primary programs.

ABILITY TO MAKE TRAVEL SAVINGS IN FY 1988

Gentlemen, I want to commend you and your Bureau for not only meeting the travel cuts mandated by the Committee, but exceeding them. The Committee directed your agency to cut about $361,000 in travel and transportation in fiscal 1988 and your justifications (p. PD-2) shows that you will be able to achieve savings of $612,000 in travel and transportation this year.

QUESTION: Your justifications give us a brief explanation of how you made the savings, but tell us in a bit more detail how you were able to cut back travel in FY 1988 -- especially after Congress cut your overall budget rather sharply.

ANSWER: The $612,000 in travel and transportation savings is composed of two separate reductions. The Bureau has been able to achieve savings of $562,000 in transportation of things due to reductions in the volume and cost of shipping definitive securities. These reduced shipping requirements are a direct result of implementing TREASURY DIRECT, our book-entry securities system. The remaining $50,000 savings was identified by the U.S. Savings Bonds Division as a result of a management decision to consolidate several field offices, thereby reducing travel costs between the offices.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

STAFFING IN PARKERSBURG, WV

The Parkersburg, West Virginia facility of the Bureau of the Public Debt maintains operations relating principally to U.S. Savings Bonds. Because of alleged productivity increases due to automation, I am advised by Treasury Department staff that the staffing levels at this facility had declined to 897 in fiscal year 1987. Last year, the Committee, at my request, provided additional staff resources to bring total staffing at Parkersburg to 922 during fiscal year 1988. I have continued to urge that this situation be carefully monitored and that the Subcommittee include report language providing additional staff resources to adequately deal with this problem.

QUESTION: Would you please provide for the record the statistics and rationale that were used to justify a reduction in staffing at the Parkersburg facility for each of the last several years?

ANSWER: Before getting into the specifics of Savings Bond program workload I would like to describe briefly the importance of the Parkersburg facility to our Bureau's operations. Over 1100, more than one-half, of our employees are located in Parkersburg. These employees work in two Bureau offices - the Savings Bond Operations Office and our Office of Automated Information Systems. All of our savings bond processing is performed in Parkersburg and the Bureau's only computer operations center is also located there. In recent years we have budgeted reductions in the Savings Bond Operations Office because of productivity improvements resulting primarily from increased automation and because of expected changes in workload. The specific workload projections that produced the budget reductions for this Office are reflected in the chart on the next page.

SAVINGS BOND OPERATIONS OFFICE STATISTICS

	FY 1984	FY 1985	FY 1986	FY 1987
Productivity Savings (FTE)	-	-31.0	-	-20.0
Workload Increase (FTE)	-	13.0	-	17.0
Planned FTE Change	-	-18.0	-	-3.0
Actual FTE	897.6	888.5	874.4	902.0
Actual Overtime	12.1	17.4	29.7	47.9
Total Work-years Used	909.7	905.9	904.1	949.9
Actual FTE Change	N/A	-3.8	-1.8	+45.8
Workload: (millions of pieces)				
Sales	66.7	74.1	86.0	96.9
Redemptions	69.3	64.8	59.2	55.2
Total Workload	136.0	138.9	145.2	152.1

QUESTION: What caused the high level of overtime, which precipitated the need for the additional staff which the Committee, at my request, provided for fiscal year 1988?

ANSWER: For the most part, our Bureau has had good success in budgeting for and obtaining the resources needed to accomplish savings bond processing within the Bureau. Historically, our Savings Bond Operations Office in Parkersburg has worked very little overtime. In 1981, for example, the need for overtime in that office was only 7 workyears. This is virtually the minimum overtime that can be worked in an organization of this size with our seasonal workload variations. More recently, however, we have not been as successful in estimating our workloads. Specifically, two events caused us to substantially increase the amount of overtime that we have asked our employees to work. First, after a precipitous decline from 148 million in 1979 to 64 million in 1983, savings bond sales have turned around and increased almost as dramatically to 96.4 million bonds in 1987. Second, we are now experiencing what I believe to be a fundamental change in the processing requirements associated with the savings bond program. This change is in the areas of servicing transactions and claims processing. The last two years have shown substantial workload increases in these areas. Despite the best efforts of our employees, we were unable to accomplish the work without overtime -in some cases considerable overtime.

Given that we do not control the circumstances that cause our savings bond workload, our ability to estimate that workload 18 months in advance will remain more of an art than a science. However, we will continue to do our best to acquire and apply the necessary resources to our savings bond workload so that overtime is kept to reasonable levels.

QUESTION: Would you please provide for the record a brief report on the current situation at the Parkersburg facility including the levels of overtime and the need for additional staff?

ANSWER: The work of the Office of Automated Information Systems personnel located in Parkersburg is being effectively accomplished with acceptable levels of overtime. Data processing project work is generally proceeding on schedule and our computer center operations are efficient and responsive. Workload in the Savings Bond Operations Office, however, is much higher than anticipated and backlogs are larger than they should be. As a result we are not as responsive to our customers as we would like to be. This is especially true in the more labor intensive work of responding to investor inquiries, processing claims for replacement bonds and in establishing entitlement and making payments in cases where bond holders are deceased.

At the start of Fiscal Year 1988, in recognition of these workloads, we increased the resources available to the Savings Bond Operations Office by 35 workyears. More recently, in anticipation of approval of our FY 1989 budget request, we added an additional

19 workyears bringing the total workyear authorization to 970 for the Savings Bond Operations Office and to 1,112 for the Parkersburg facility. These actions have decreased the need for overtime work but we still estimate that we will require 35 workyears of overtime in our Savings Bond Operations Office during Fiscal Year 1988. However, we believe that with the staff we now have authorized, overtime usage in Fiscal Year 1989 will decrease to a more traditional level.

BUREAU WORK FORCE LOCATION

In the past, I had been advised that the Treasury Department was looking into the possibility of moving some Washington-based functions to Parkersburg over a period of years to take advantage of existing space and the excellent quality work force in Parkersburg. Consequently, last year, I again recommended that language be included in the Committee Report which would accelerate and expedite the review of the relationship between the work force at Parkersburg and the work force at Headquarters with a view to shifting functions to the Parkersburg facility to make maximum use of existing space and staff. I have recently been advised, however, that such a shift may be delayed until reductions in force in the Washington area can be absorbed. Nevertheless, I fully intend to continue to pursue this matter.

QUESTION: What is your latest estimate of this situation?

ANSWER: Our Bureau is fortunate to have several locations to consider for accomplishing our work. In addition to dedicated and competent work forces in Washington and Parkersburg, much of our work is accomplished by experienced personnel in Federal Reserve banks throughout the country. In view of your question, there has apparently been some misunderstanding about our Bureau's approach to locating its functions. We have not been studying or specifically looking into the possibility of moving Washington-based functions to Parkersburg.

As part of our normal planning and management review processes, however, over the last few years the following operations have been moved to or centralized in Parkersburg: all of the Bureau's data encoding as well as all of our data processing scheduling and production control is now performed in Parkersburg; the production and distribution of savings bond forms and redemption tables is now accomplished from our Parkersburg facility; all of the direct issuing, servicing and redemption of savings bonds previously handled in Washington is now done at Parkersburg; a number of professional data processing positions have been moved to Parkersburg; and most recently, the program and operational responsibility for the Bureau's procurement function was transferred to a newly established organization in Parkersburg. These relocations occurred along with other functional realignments between the Bureau and Federal Reserve banks.

Although we have not, in the past, specifically studied our operations with the express intent of moving functions to Parkersburg, we have now been asked to do so. We will begin the study in Fiscal Year 1988.

QUESTION: When can I expect to see a realization of the intent of the Committee Report that Washington-based functions be shifted to the Parkersburg facility?

ANSWER: In Senate Committee Report 100-160 the Treasury Department was directed to accelerate and expedite the review of the relationship between the work force at Parkersburg and the work force at headquarters with a view to shift functions to the Parkersburg facility to make maximum use of existing space and staff. The Department was further directed to report back to the Committee periodically during fiscal year 1988 regarding the status of these functional shifts.

The Bureau provided a report to Chairman Deconcini on January 13, 1988. In that report the Bureau stressed its commitment to accomplishing its mission effectively at the lowest feasible cost. Our report also indicated that Bureau management recognizes the importance of using space and staff efficiently and effectively and has adopted a long-range goal of having work done at the locations where it can be best performed.

In the FY 1989 budget request the Bureau indicated its plans to initiate a review of operations in FY 1988 to determine the feasibility of consolidating similar functions in a single location. We expect that the study will be completed in FY 1989.

LEASE RENEWAL

QUESTION: What are the prospects for negotiation of an early renewal of the lease agreement expiring in 1994 which would enable the Bureau of Public Debt to occupy office space in Parkersburg, West Virginia, so that the Parkersburg area may be assured of the continued employment and tax base related to this facility. I am advised that the owners of the building are anxious for an early negotiation and are prepared to offer some monetary value, such as a rent reduction, in order to secure an early renewal. I have been in touch with the Assistant Secretary for Legislative Affairs regarding this matter, but I have not yet received a response. What can you tell me about this matter?

ANSWER: The Bureau is well pleased with Parkersburg as a location in which to conduct a major part of its business and is generally satisfied with the building, which accommodates more than 1,100 Public Debt employees. Further, the Bureau is very well satisfied with the quality of the work force. In view of the Bureau's satisfaction, it has no plans to seek alternative space.

The current lease on the Bureau's Parkersburg office building which expires in 1994 contains provisions for two five year renewal options. Exercising these options would ensure occupation of the property through 2004.

The lease for the Parkersburg building is administered by the General Services Administration, and that agency is solely responsible for dealing with proposals of this kind. The Assistant Secretary for Legislative Affairs has communicated your concern regarding this matter to the General Services Administration and has requested that the Commissioner for Public Buildings respond directly to your inquiry.

U.S. MINT

ADDITIONAL COMMITTEE QUESTIONS

RESEARCH and DEVELOPMENT

Senator DeConcini. In examining your table on page 1 of your justifications, I notice that in order to meet the Congressional cuts below the President's fiscal year 1988 request, you applied reductions to replacement of equipment; manufacture of coins; protection of monetary metal and coins; and other areas, but left totally untouched your $965,000 research and development budget.

It would seem to me that your priorities should have been to cut out your research, rather than cut back on replacement of equipment or manufacture of coins or other basic Mint functions. I am particularly puzzled why you cut 'replacement of equipment' since you are asking for an increase for 'replacement of equipment' in FY 1989.

Can you tell us why you took the budget cuts in such high priority areas and insulated R&D from any reductions?

Mrs. Pope. The Mint had every intention of absorbing some of the "congressional cuts" in fiscal year 1988 from funds available for research and development. We were advised that we would not be permitted to do so since our appropriation language specifically set aside the funds for research and development and could not be reduced.

EXPANSION and IMPROVEMENTS

Senator DeConcini. For the second year in a row, you are not asking for any 'expansion and improvement' money for the Mint. At the same time, I cannot believe that there isn't a major request for Mint construction or improvements coming down the pike. Can you give us a five-year snapshot of what magnitude of major expansion and construction requirements we may be facing beyond fiscal year 1989? Tell us briefly now and give us a good, detailed five-year expansion and improvement plan for the U.S. Mint.

Mrs. Pope. There are no plans for near-term expansion. However, there are plans for improvements to be made to the current facilities. It is estimated that the funding requirements will be approximately

$5.1 million in appropriated funds and $6.9 million in reimbursable funding, or a total of $12 million. No one project will require funding of a million dollars in any given year. Over the next five years, our current planned request for Land and Structures Building Improvements funding consists of: Philadelphia, $3.44 million; Denver, $3.44 million; San Francisco; $3.26 million; West Point, $1.38 million; and Fort Knox, 0.46 million.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

Senator Domenici. How many existing commemorative and newly-legislated coin programs are there? How many of these are not profit-producing? Would you please provide a list of these for the record and indicate the profits or losses associated with each.

Mrs. Pope. From 1982 to date, there have been six commemorative/legislated coin programs. The 1982 George Washington Commemorative Half Dollar was the first legal tender coin to be minted solely as a commemorative by the U.S. Government since 1954. All coin programs have been and still are profit-producing. The following is a list of these programs:

George Washington Commemorative Coin Act

Legislation authorized the U.S. Mint to strike silver commemorative half dollar coins to recognize the 250th anniversary of the birth of the nation's first President. Profits of $41.5 million were realized on this program of which $21.5 million related to a gain on sale of silver. The gain on silver is due to the difference between the market price and Treasury's book value. Sales were discontinued December 31, 1985.

Olympic Commemorative Coin Act

This legislation authorized the U.S. Mint to strike both gold and silver coins in support of the 1984 Los Angeles Olympic Games, as well as the future training of athletes. The surcharges, mandated in the legislation, donated to the Olympic Committees from the Olympic Coin Program amounted to $73.5 million. In addition, the United States Treasury benefitted from an operating profit of $10.3 million and a profit on the sale of Government gold and silver of $127.3 million. This program ended January 18, 1985.

Statue of Liberty - Ellis Island Commemorative Coin Act

Legislation authorized the U.S. Mint to strike gold, silver, and clad coins for the support of the restoration of the Statue of Liberty and Ellis Island. Surcharges raised for the Statue of Liberty-Ellis Island Foundation, Inc. amounted to $83.2 million. The United States Treasury benefitted by an operating profit of $28.6 million and a profit on the sale of Government gold of $34.2 million. The profit on the sale of GSA stockpile silver, which goes to GSA, was $23.6 million. This program ended December 31, 1986.

American Eagle Gold and Silver Bullion Coin Program

The American Eagle Gold Bullion Program continues into its second year of operation. Since its beginning, we have sold approximately 3.1 million ounces of gold in bullion uncirculated coins and 660,000 ounces of gold in proof coins worth $1.7 billion. Profit to date on the American Eagle Gold Uncirculated Program is approximately $28 million, which includes the profit on the repurchase of gold originally borrowed from Treasury reserves. Profit to date on the American Eagle Proof Gold Program is approximately $74 million.

The American Eagle Silver Bullion Program also continues into its second year with cumulative sales exceeding $165 million. We have sold over 15.3 million ounces of silver in bullion uncirculated coins and 2.3 million ounces of silver in proof coins. Total profits to date for both the American Eagle Uncirculated and Proof Silver Programs are approximately $22 million. The profit on the sale of this silver to date, which is the difference between market value and Treasury's book value, is $89.6 million. This profit goes to GSA, since the legislation mandated that we use stockpiled silver.

Bicentennial of the Constitution Coin Act

The United States Constitution coin program has raised over $49 million in surcharges for deposit to the General Fund of the Treasury. In addition, we are projecting an operating profit of approximately $22 million which will also benefit the United States Treasury. This program will end during 1988.

1988 Olympic Commemorative Coin Act

The Olympic coin program is a newly established program which authorizes the minting of commemorative coins to help support the American Olympic athletes in training. As this program is just beginning, there have been no profits realized to date. This program is expected to generate $21 million from profit on the sale of Treasury gold contained in the Olympic Coins, as well as an estimated $49 million in surcharges to go to the United States Olympic Committee. The legislation mandates the use of strategic stockpile silver. This program is scheduled to end in 1989.

Senator Domenici. Of the $665,000 increase requested for research and development in fiscal year 1989, how much is associated with the continued development of the "count, bag, and stack system" and how much is for the computerized coining control initiative?

Mrs. Pope. Of the $665,000 requested for FY 1989, $75,000 is for the "count, bag, and stack system" and $150,000 is for the "computerized coining control initiative." The remaining amount of $440,000 will allow the Mint to purchase equipment to implement the R&D results. The most probable purchases would be improved coin press feed systems which increase coin output by 25%. These systems were developed with R&D funding.

Senator Domenici. Your fiscal year 1989 budget requests $1.0 million for additional asbestos removal at the Denver Mint and to initiate asbestos removal at Philadelphia. How much of the increase requested is for the Philadelphia initiative? What is the total estimated cost of both the Denver and Philadelphia asbestos removal programs?

Ms. Pope. In fiscal year 1989 the asbestos plan for Philadelphia requires $70,000 in appropriated funds.

The current estimate of cost for the total asbestos removal program at the Mint is as follows:

	Appropriated	Reimbursable	Total
FY 1987	$ 325,000	$ ---	$ 325,000
FY 1988	1,500,000	54,000	1,554,000
FY 1989	2,500,000	500,000	3,000,000
FY 1990	1,300,000	500,000	1,800,000
FY 1991	215,000	315,000	530,000
FY 1992	215,000	315,000	530,000
FY 1993	215,000	215,000	430,000
	$6,270,000	$1,899,000	$8,169,000
Denver	$5,305,000	$ 270,800	$5,575,800
Philadelphia	965,000	910,000	1,875,000
San Francisco	---	494,700	494,700
West Point	---	223,500	223,500
	$6,270,000	$1,899,000	$8,169,000

Senator Domenici. Your fiscal year 1989 request includes $525,000 for building repairs and improvements at Denver. Will this request take care of all required building and improvement needs for the Mint?

Mrs. Pope. No, the Mint's FY 1989 appropriated request for building improvements of $575,000 will take care of building improvements for the Denver Mint only. Our original request also included $515,000 for building improvements to the Philadelphia Mint. The FY 1989 budget request includes reimbursable funding in the amount of $750,000 for Denver, $375,000 for San Francisco, and $265,000 for West Point. Under the reimbursable portion of the FY 1989 budget, Philadelphia would receive funding in the amount of $240,000 to cover building repairs and improvements that are related to reimbursable activities. However, our 5-year funding requirements will be approximately $5.1 million in appropriated funds and $6.9 million in reimbursable funds or a total of $12 million.

Senator Domenici. Your fiscal year 1989 request proposes an increase of $3.121 million and 66 average positions for increased coin production (16.7 billion coins versus the 13.3 billion coins planned to be produced in FY 1988). I understand this appropriation excludes costs such as materials, storage, etc. If you include these costs, how much is it costing to produce each coin? Are these production costs increasing and what is the reason for these cost increases?

Mrs. Pope. The appropriation excludes funding for the purchase of coinage metals, including the cost to fabricate these metals into strip and blanks as well as the cost for transportation and temporary off-premises storage. These costs are funded through the Coinage Metal Fund.

We are not projecting any significant increase in overall unit costs. The projected increase in unit costs from FY 1988 to FY 1989 for the Coinage Metal Fund is due to the current upward trend in the market price of copper and nickel. The appropriated unit costs reflect decreases as a result of economies of scale reached through increased production over FY 1988. The following reflects the total cost per thousand coins:

	Unit Cost Per Thousand Coins		Percent Increase-FY 1989 Over FY 1988
	FY 1988	FY 1989	
1 Cent	$ 6.44	$ 6.47	.5%
5 Cent	28.54	30.43	6.6%
10 Cent	15.14	15.61	3.1%
25 Cent	35.34	36.86	4.3%
50 Cent	72.90	75.63	3.7%

IS THE TIME RIGHT FOR CURRENCY REFORM

Senator Domenici. I know that the Treasury and the Mint are in the process of conducting an extensive study on S. 1742, a bill to provide for updating our currency and the minting of a gold-colored dollar coin. You are looking into the financial impact on the Mint in terms of production and personnel; public acceptance; the issue of withdrawing the dollar note; specifications and the experiences of other countries. We eagerly await the findings of the study. We would like to urge you to meet that June 30 deadline. Do you think you will be able to complete the study by then?

Mrs. Pope. It is anticipated that the Treasury Department will meet the June 30, 1988, deadline for completion of the study of the implications and impact of legislation to authorize the Treasury Department to mint gold-colored dollar coins.

Senator Domenici. The Mint and the Federal Reserve system are responsible for jointly forecasting the coinage requirements. Can you give me a few comparisons of trends in coin circulation: For example: What percentage of the Mint's production is cents, nickels, dimes, quarters, and half-dollars?

Mrs. Pope. From 1960 to 1982, coin demand grew at about 7.5% per year, or from 2.8 billion coins in 1960 to 18.4 in 1982. After 1982 demand requirements trended downward, it bottomed at 13.7 billion coins in Fiscal Year 1986. Demand increased to 14.9 billion in FY 1987, and is expected to be 15.7 billion in FY 1988.

Over two, four-year periods (fiscal years 1974-1977 and fiscal years 1984-1987), the percentage of cents, nickels, dimes, quarters, and halves in relation to total production has averaged as follows:

	FY 1974-1977	FY 1984-1987
Cents	75.2%	75.3%
Nickels	6.8%	7.0%
Dimes	8.9%	9.1%
Quarters	7.2%	8.4%
Halves	1.9%	0.2%
Total	100.0%	100.0%

Although there have been variations in our denominational mix from year-to-year, there have not been dramatic changes in the mix over time.

Senator Domenici. The U.S. printed about 3.2 billion dollar bills in 1987. If the Congress were to shift to dollar coins, can you estimate how many we would need each year.

Mrs. Pope. Senator Proxmire has requested that the Department study the implications of legislation requiring the minting of gold colored dollar coins. Although an analysis is not yet complete, I would be happy to provide some preliminary views in response to your question.

The U.S. Mint would be required to produce approximately 5 billion one dollar coins over a 5-year period. If a new dollar coin is produced and successfully circulated, and there is no demand for the $2 note, production may have to continue at a rate of 1 billion per year until a circulation pool of 10 billion dollar coins is available to satisfy coin machine usage. This estimate is based on the following assumptions:

1. The dollar note will no longer be produced beginning 18 months after introduction of a new dollar coin.
2. A circulating pool of 5 billion one dollar notes are required to sustain cash transactions.
3. The 3.2 billion dollar notes issued in 1987 were the amount required to maintain the circulating pool at the 5 billion note level to sustain cash transactions.
4. Based on an average service life of 18 months, less than 10% of the 5 billion notes in the circulating pool in 1987 are estimated to be surviving by the end of 1992.

Senator Domenici. Are you familiar with the term "'coin-note boundary'"; i.e., the point where a country should have a coin and not a note? Do you think from a purely technical standpoint, the time is right to adjust our coin-note boundary? Dr. L.C. Payne presented a paper entitled "Currency Planning in the Eighties" to the Mint Directors Conference in 1980. Dr. Payne is with the Thomas De LaRue Company in England. He found that in terms of face-value, payments made in the U.S.A. are 97% cashless and only 3% cash, but despite this, cash payments by volume make up 87%; 75% of which are less than $1; 95% are less than $10. Dr. Payne postulated a theory that the coin-note boundary lay between one-fiftieth and one-twentieth of a days average net take-home pay. Using this theory, the U.S. had adjusted its coin-note boundary more than a decade ago. It would suggest that Canada should have both a $1 coin and a $2 coin. Are you familiar with the Payne theory? Do you agree with the validity of the Payne theory? What other theories are there to determine the appropriate coin-note boundary?

Mrs. Pope. Yes, I am familiar with the term "coin-note boundary". While Dr. Payne's analysis may be sound on a technical basis, it does not consider the realities of our retail outlet market strategies, and the need for the cent for sales tax purposes. Yes, I am familiar with the Payne theory. Dr. Payne uses what is known as the "D-Metric System" to answer currency management questions dealing with such matters as denominational structure, demonetization decisions, and note-to-coin conversion to maintain a consistent note-coin boundary.

In his presentation, Dr. Payne made the following points: A full-scale, D-Metric analysis of a particular currency takes about four months to carry out; the system requires a whole day to describe in detail; once the analysis has been made of a particular currency, it requires only a few hours per year to keep it up to date; the system is being put on microcomputer software to reduce the time of the initial analysis.

According to the D-Metric theory, the average daily take-home pay forms the basis for restructuring a coin/currency system. Changes in the currency system should take place at a prescribed pay level. According to the theory, during the period 1977-1978 when the take-home pay averaged $50 per day, the one cent coin should have been eliminated and replaced with a two cent coin, as well as eliminating the dollar note and replacing it with a dollar coin. When the daily pay reaches $100, the two cent piece should be eliminated.

In 1987, the D-Metric method was briefly reviewed by a Treasury Department economist as part of a Treasury Department project. The comments indicated that the basic assumptions of the D-Metric method had not been supported by any analysis in the presentation papers, and that there were questions regarding the method which could only be answered by analysis, which had not been conducted nor was it available to the economist. I am not aware of any other theories to determine the appropriate coin-note boundary.

Senator Domenici. Which countries have high denomination coins in excess of $1 that are in general circulation? Some examples I know of include the new 1 pound coin worth about $2.00 in England; the German 10 mark coin worth $5.90; and Austria with its 20 shilling coin worth $1.70.

Mrs. Pope. From information available to the Mint, it was determined that the following countries have in general circulation coin denominations which are valued in excess of U.S. $1.

Country	Coin	U.S. Dollar Value	Paper Note Still Circulating
Austria	20 Schilling	$1.68	Yes
Denmark	10 Krone	1.54	No
Finland	5 Markka	1.21	No
France	10 Franc	1.74	No
Germany	5 Deutsche Mark	2.95	No
	2 Deutsche Mark	1.18	No
Japan	500 Yen	3.85	Yes, but phasing out
Netherlands	2.5 Guilder	1.31	No
Norway	10 Krone	1.56	Yes, but phasing out
Switzerland	2 Franc	1.44	No
United Kingdom	1 Pound	1.76	No

Senator Domenici. Prior to launching the Canadian Dollar Coin, the Canadians created a Currency Advisory Committee composed of organizations directly involved in the coinage business with the Mint. Does the U.S. have such an Advisory Group? In your opinion, would creating such a group be a worthwhile undertaking?

Mrs. Pope. The U.S. does not have a formally established "Currency Advisory Group", nor do I think one is needed, since the interests and concerns of all sectors of the nation to whom the Mint is responsible for providing coinage are readily apparent and accessible to the Mint. These sectors include the general public, vending machine industry, numismatists, metals industry, Congress, Federal Reserve System and the banking establishment.

Senator Domenici. I have a letter from the Canadian Mint which outlines how they proceeded in introducing their new $1 coin. Which of these steps do you think would be important if the U.S. were to follow in their footsteps?

Consultation with major coin users as to their technical needs (coin must roll on edge, be difficult to counterfeit, etc.)

Consultation with major coin handling equipment manufacturers to determine their special needs or perceived problems

(ability to differentiate Canadian and U.S. coins, methodology used to determine alloys, etc.)

Consultation with special interest groups such as the Canadian National Institute of the Blind, the Canadian Council for the Blind to determine their needs.

Manufacture of tokens which would satisfy the majority of needs of the above groups.

Evaluation of tokens.

Modification of tokens which may be described as a tuneup.

Public opinion polls to determine if size, shape and color was acceptable.

Large scale production of tokens so that all equipment manufacturers and suppliers and/or users could evaluate the token.

Final modifications to reflect input from the various groups.

Presentation of reasons for coin, technical attributes to Government Committee.

After the law was changed to permit the new coin to be issued, a PR campaign was introduced whose sole objective was to make the population aware of the coin.

By launch day, the Canadians had the support of the Canadian Banker's Association; Canadian Payments Association; Retail Council of Canada; Cooperative Credit Society; Canadian Urban Transit Association; Canadian National Institute for the Blind; Canadian Soft Drink Association; Canadian Automatic Merchandising Association.

Mrs. Pope. The Mint would recommend that, as a minimum, the following steps be taken as part of the process for introducing a new dollar coin into the monetary system of the United States. These steps are similar to the process followed by the Canadian Mint.

A formal, scientifically conducted, nation-wide public opinion survey be undertaken, possibly by Congress, to determine the acceptability of a dollar coin by the public; public reaction to a dollar coin and elimination of the dollar note; public opinion as to the characteristics of the coin (e.g., size, shape, color, weight, design) and attitudes toward the nation's current coin/currency structure.

A survey of retail establishments and associations, especially those involved in businesses requiring a high volume of cash transaction, to determine the impact and best means of introducing a new dollar coin into the nation's commerce.

Special consultation with organizations representing the handicapped, especially the sight impaired.

Consultation with coin users to determine the technical specifications required of their machines, to include the manufacturers of vending and change machines, gaming and entertainment equipment and transit fare boxes.

Consultation with metal producers, fabricators and research institutions to determine the best alloys and processes to use in producing coinage materials.

Production and production testing of trial pieces, to include testing in vending machines and other coin-use equipment.

Development of a public education program, supported by the development of a coin production and distribution schedule and a dollar note termination schedule, as well as information concerning any costs savings associated with the dollar coin.

SEIGNIORAGE

Senator Domenici. Would you please explain seigniorage?

Mrs. Pope. Seigniorage is defined as the difference between the face value of coins and their cost of manufacturing. This cost includes coinage materials used as well as labor, supplies and overhead. Seigniorage is calculated when coins manufactured are transferred from production to the Mint's cashiers. It is at this point that the coinage metal is revalued to face value coin. This upward valuation results in a profit which is called seigniorage. The seigniorage is deposited to the General Fund of the Treasury and classified as a receipt to be used for financing budget deficits.

Senator Domenici. I am told that if we were to melt the Anthony dollars down, the seigniorage would have to be reversed, thus adding about $500 million dollars immediately to the deficit. If a new dollar coin is minted, could it be "traded in", so to speak, for the Anthony dollars without incurring the seigniorage loss? Would that require legislation?

Mrs. Pope. Seigniorage realized from the minting of a new dollar coin could be used to offset any seigniorage loss resulting from the melting of Anthony dollars. This procedure is already being followed in regard to the melting of mutilated and uncurrent (old and worn) coins of the other denominations; therefore, additional legislation would not be required.

Senator Domenici. Is there seigniorage on every bill and on every coin?

Mrs. Pope. The concept of seigniorage is applicable to coinage but not Federal Reserve notes. There is seigniorage on all domestic circulating U.S. coins.

The Treasury Department produces Federal Reserve notes on behalf of the Federal Reserve Board and recovers only the cost of their production and additional amounts to acquire capital equipment and provide working capital. When the currency is entered on the Federal Reserves books, it is entered at face value as a liability. Subsequently, when the currency is purchased by a commercial bank, the Federal Reserve Bank debits that commercial bank's reserve account by a like amount. This is an accounting transaction with no accompanying exchange of funds. Thus, no seigniorage revenue is derived from the production and issuance of Federal Reserve notes.

Senator Domenici. What is the seigniorage accounting transaction when a coin is worn out and taken out of circulation?

Mrs. Pope. When mutilated and uncurrent coin is returned to the Mint, it is melted down and the seigniorage previously realized from these coins is deducted from or offset by the seigniorage resulting from current coin production.

Senator Domenici. The Federal Reserve Board has written me on November 25, 1987: (1) That in 1986, the total expenditure for handling one dollar bills was $109.9 million; (2) This represented approximately 43 percent of the Federal Reserve's cost for all of its currency handling activities; (3) 33 percent of the currency handled by the Federal Reserve Bank were dollar bills; (4) That the Fed spent $7.6 million dollars simply shredding the worn out bills; and, (5) 2.74 billion one dollar notes were destroyed.

I realize that my next question is a little out of your bailiwick, but perhaps you know the answer. What is the impact on seigniorage when a dollar bill is taken out of circulation and shredded?

Mrs. Pope. Seigniorage does not apply to Federal Reserve notes. Therefore, the removal of a dollar bill from circulation and its subsequent destruction have no impact on seigniorage.

IMPACT OF A DOLLAR COIN ON THE OPERATION OF THE MINT

Senator Domenici. If Congress were to pass legislation for a new gold colored dollar coin, would the Mint require new equipment? Would it require hiring new people?

Mrs. Pope. If Congress were to pass legislation for a new gold colored dollar coin, the Mint would require new equipment, assuming that the need for the other denominations of coins remain as currently projected. In order to produce one billion dollar coins per year, the Mint, if blanks for the coins were made in-house, would need to purchase two blanking presses, and an annealing furnace, with an estimated cost of $1.5 million. The purchase of new coin presses could be delayed with the implementation of the new press feed system that will increase Bliss press output by 25% until coin demand exceeds capacity during a five day work week. However, seven new high speed coining presses would be much more efficient at producing dollar coins than even "improved" Bliss presses. Yes, we would need a staff increase, the size of the increase dependent on whether the blanks were made in-house or by the private sector and whether we had purchased new high speed presses. We need 33 FTE's ($990,000) for each billion coins produced, assuming the blanks are made in-house.

Senator Domenici. Could the same equipment be used that was purchased for minting the Susan B. Anthony dollars?

Mrs. Pope. The Mint did not purchase new equipment to mint the Susan B. Anthony dollars. However, as I indicated in response to your previous question, new equipment would be required for a new dollar coin.

WITHDRAWING THE PENNY

Senator Domenici. What would be the impact on the Mint in terms of personnel and volume of coins minted if Congress were to pass legislation withdrawing the penny from circulation?

Mrs. Pope. In FY 1987, the Mint produced 9.3 billion pennies; in FY 1988, the number is estimated to be 9.7 billion or 73% of the Mint's scheduled coin production.

The Mint has estimated that if the penny were no longer produced, approximately 50% of the production workforce or approximately 240 positions would no longer be needed. The reduction in workforce is not in proportion to the penny volume fraction because: one cent coins are the easiest to produce and require less manpower (no blanking, annealing, upsetting, cleaning, etc.), and more nickels and dimes could possibly be required for "rounding-off" change than currently needed. Since all other Mint programs would continue, the direct impact of terminating penny production would be minimal on administrative personnel.

Senator Domenici. Have you experienced increased hoarding over the years of the pennies because people empty their pockets every night and throw the pennies in a jar? Do you think the penny has outlived its usefulness? Whose responsibility is it to handle worn out coins? How are they disposed of?

Mrs. Pope. The U.S. Mint is just completing the most comprehensive study conducted to date designed to estimate the stock of coins in circulation and annual rates of attrition for each denomination. Preliminary analysis of data shows lower rates of attrition and higher estimates of the circulating stock of one cent coins than previous surveys. This would suggest that more one cent coins are in active circulation and fewer are hoarded.

There is no empirical evidence that the cent has outlived it usefulness. In a study conducted by Research Triangle Institute in 1976 for the U.S. Mint, 88.3% of all state departments of revenue opposed elimination, citing the difficulty associated with collecting sales taxes. In a separate Mint survey, 52.3% opposed elimination. In the same study, 90% of retail firms contacted opposed elimination. The American public and business have never pressured for changes to the coin and currency system of this country, which has been among the most stable in the world.

This would indicate that the vast majority of users are comfortable and satisfied with the existing system.

The U.S. Mint is responsible for the redemption of worn out coins. Worn out coins, including mutilated, are forwarded to the U.S. Mint for redemption. Coins returned to the Mint are melted. The melt, subject to an analysis, is either sold as scrap or recycled into coinage.

NEW COIN

Senator Domenici. I see several facets to the question of whether we should mint a new dollar coin. One deals with the technical specifications--shape, composition, alloy, plating vs. mixes, durability, etc. Of each of these items, how much can be learned from the recent Canadian experience?

Mrs. Pope. Although we know and understand the technical specifications of the Canadian dollar coin, it has not been in circulation long enough for one to reach conclusive determination regarding its durability. The coin is made of nickel and is overplated with a thick plating of a bronze alloy. We would not want our dollar coin to be like the Canadian because of vending machine discrimination. The procedure used for plating the Canadian dollar coin was developed by the Sherritt Gordon Mines LTD. of Canada. Presently, we know of no American company which uses this procedure.

Senator Domenici. What would be the problem of minting a coin the same shape, size, composition, alloy, etc., as the Canadian Loon and piggy backing on their technical studies? What other technical questions would need to be addressed?

Mrs. Pope. Minting a coin of the same shape, size, composition, alloy, etc. as the Canadian dollar would pose the problem of the Canadian and U.S. dollars being interchangeable in vending machines. The plating technology for the Canadian coin is covered by a process patented by a Canadian firm. If a decision were made to duplicate the bronze plating process and to produce the blanks in the USA, a licensing agreement would have to be worked out with the private Canadian company which owns the patent for that process. Such an agreement would be expected to add to the cost of producing the dollar coin and could require additional time to implement. It should also be noted that the Canadian dollar is composed primarily of nickel, a metal that is readily available in Canada but in short supply in the U.S. The recently-enacted "Buy

American" provision in the Mint's authorization legislation could have a "chilling effect" on the dollar coin project.

Senator Domenici. What is the difference between mixes vs. plating when evaluating durability?

Mrs. Pope. Since plating is a thin outer layer of metal over the base alloy of a coin, the durability of the coin is determined by the ability of plating to resist wear. In a homogeneous alloy coin or a clad coin, there is a greater thickness of the surface material and thus the potential for greater wear life.

Senator Domenici. Is the Canadian coin plated, clad or what type? What are the differences and the merits of each?

Mrs. Pope. The Canadian one dollar coin is brass plated over pure nickel. This differs from a U.S. clad coin, a quarter for example, which is composed of two outer layers of 75% copper, 25% nickel bonded to a pure copper core. The two outer layers are approximately 1/6 of the thickness of the total coin. U.S. clad coins were first minted in the mid 1960's. Many of those early mintages continue to circulate, indicating a high level of durability. The Canadian plated dollar is much too new to determine its durability.

Senator Domenici. Another important factor in evaluating whether the U.S. should issue a dollar coin is public opinion. In the last instance, the public decides whether or not a given denomination is accepted and circulates properly. Prior to circulation of the Canadian dollar, 22 percent of the Canadian people liked the idea. Now that the coin has been in circulation for several months, 65 percent of the Canadians are "firmly in favor" of the new coin. The figure jumps to over 90% when the question is prefaced with information about the cost savings to the Federal Government. What steps did the Canadian Mint take to make their dollar acceptable?

Mrs. Pope. The Canadian Mint conducted extensive discussions with coinage material suppliers, vending machine manufacturers, operators of vending machines, developed a substantial public awareness campaign through the use of bus and transit advertisements, public service ads on billboards and produced educational tapes for use in public service announcements.

Senator Domenici. I understand that both Susan B. Anthony and the Canadian Loon experienced last minute changes in design. For the Canadian Loon, the changes added to its acceptance. For the Susan B. Anthony, the changes, I think in retrospect, contributed to its rejection.

I think a fatal mistake was made when the Susan B. Anthony was changed from a gold coin to a silver coin. Confusion with the quarter was inevitable.

The Canadian coin was not originally going to have the picture of the loon. It was going to honor the Queen Mother, but just prior to going into production the plates were stolen. I believe this national mystery added to the mystic and certainly raised the conscience level of the Canadians about their new coin. What sensational plan do you have for the Christopher Columbus coins?

Mrs. Pope. In speaking with the Mint Director of the Royal Canadian Mint, it was made clear the vanishing master dies were certainly not intentional; however, once faced with the problem they worked very hard to "put a positive spin on it."

Senator Domenici. How much does it cost to store the 345 million Susan B. Anthony's per year?

Mrs. Pope. Of the 458 million SBAs in inventory, 217 million are stored at Mint facilities at no cost. An additional 122 million are in storage for the Mint at the Denver Branch of the Kansas City Federal Reserve Bank, at a cost to the Mint of $21,000 per year. The remaining 119 million SBAs are part of the Federal Reserve System's inventory.

THE BILL TO REDESIGN THE COINS--SENATOR ARMSTRONG'S BILL

Senator Domenici. What would be the impact on the Mint if the designs are changed for the various coins as is contemplated by another bill, S. 1776?

Mrs. Pope. While there is no conclusive evidence that design changes alone would create a significant increase in coin demand, if there were a demand increase, the Mint would require supplemental funding for personnel and equipment. Until designs are selected and testing begins, the Mint cannot predict the effect the new designs will have on production factors such as coinability and die life, nor the cost impact of potential production problems. If sufficient testing time is allowed, the impact on the Mint can be managed and performed in an efficient manner.

Senator Domenici. Would the old design coins be withdrawn, melted down, or left in circulation?

Mrs. Pope. The old design coins would be left in circulation, and would leave the circulating pool in accordance with the attrition process. It would be costly and unnecessary to withdraw the old design coins from circulation since their legal tender status would remain unchanged.

Senator Domenici. What would be the impact on seigniorage?

Mrs. Pope. The impact on seigniorage depends primarily upon whether redesign would increase demand, thus requiring the Mint to produce more coins than it would have produced had designs not changed. Based on the Mint's research, there is no conclusive evidence that design changes alone would stimulate a significant short-term increase in demand and, therefore, seigniorage.

Assuming design changes did cause an increase in demand, the increase in total seigniorage would also depend on the order in which the design changes were undertaken. However, neither the Department nor the Mint has made a firm decision on the desirability of design changes or the order of possible design changes.

If the bill were to be enacted, the Mint has considered using the quarter as the first coin to be changed. Under this scenario, the Mint would expect additional seigniorage of approximately $224 million during the design change period of FY 1990-1995. However, as additional time passes, and the old design coins are withdrawn from circulation, production and seigniorage will increase significantly.

Finally, although the Mint recognizes the importance of seigniorage, the Mint's primary purpose in making coins is to meet the needs of the nation's commercial activities. Thus, increased seigniorage as a result of design changes should be treated as a beneficial by-product of the changes, not as a reason for undertaking them.

Financial Management Service

STATEMENT OF WILLIAM E. DOUGLAS, COMMISSIONER

ACCOMPANIED BY:
GERALD MURPHY, FISCAL ASSISTANT SECRETARY
MITCHELL A. LEVINE, ASSISTANT COMMISSIONER, COMPTROLLER
KAROL A. FORSBERG, DIRECTOR, BUDGET DIVISION

THE 5.6-PERCENT INCREASE

Senator DeConcini. Our final witness this morning is Mr. William E. Douglas, Commissioner of the Financial Management Service at Treasury.

Senator Mikulski has agreed to Chair this part of the hearing because I have another appointment, and I know she does too. My thanks to the Senator for handling this wind up one for us today.

Senator Mikulski [presiding]. Any time you are ready.

First of all, we are delighted with the fact that you are in Prince Georges County.

Mr. Douglas, one of the questions from the chairman is, you have a 5.6-percent increase that has to do with operations. As you know, the economic budget summit agreement calls for a 2-percent increase over 1988 for nondefense. If we were to hold your agency to that formula, your budget for next year would be $270 million, not $280 million.

What would be the effect on your operations if we were to hold you to that budget?

Mr. Douglas. It is a very good question, Madam Chairman. If I may, I have a chart that I think will illustrate the answer to your question very well.

This chart shows from fiscal year 1984 through the current year, and then projecting out to fiscal year 1991. The bottom bars represent our appropriation requests. With the upper bars, you see the amount of earnings which the Financial Management Service earns for the Federal Government.

For fiscal year 1989, our budget fiscal year, our appropriation request is $280 million. We are projecting a program savings and interest earnings figure of $1.6 billion in 1989, which is more than five times the cost of our appropriation request.

In addition to that $1.6 billion, we have approximately another $1 billion in Treasury tax and loan earnings. These two components together comprise approximately $2.6 billion in savings and earnings.

In other words, we are reducing the deficit, Madam Chairman, rather than increasing it with our appropriation request. We truly are a profit center, rather than an expenditure center. We don't have our hand in Uncle Sam's pocket—we are putting money in Uncle Sam's pocket.

I might make one other point. In case you wonder whether our projection of $1.6 billion in program savings and interest earnings is going to stand up, the diagonal lines for fiscal year 1984 to fiscal year 1987 here indicate to you how much we have underestimated savings in these past fiscal years. We tend to underestimate these savings when we project the out-years, and we have done so on the order of 15 to 20 percent per year.

Senator MIKULSKI. Thank you. That was a very fine explanation.

My questions next will deal with your systems modernization, and then an issue related to an increase in servicewide security.

Again, in systems modernization, you are asking for a substantial increase. Could you explain, for the record, why we should have such a huge percentage for systems modernization and what will happen if we cut it in half?

SYSTEM 90

Mr. DOUGLAS. Madam Chairman, in our fiscal year 1989 budget, we have $6.8 million in our base—it is not an additional amount, it is in our budget which rolls over from fiscal year 1988. This amount is for the second phase of what we call system 90. We make almost all of the payments for civilian agencies in the Federal Government. This represents about 750 million payments a year, with the largest number, as you can imagine, being for Social Security payments.

COLLECTIONS MECHANISMS

In addition to that, we manage collection mechanisms that bring in a little over $900 billion. When you heard the Commissioner of the Internal Revenue Service [IRS] talk about receipts, most of that money does not come directly to IRS. It comes through the Financial Management Service, through collection mechanisms that we manage. We have about 15,000 banks, for example, that collect through the Treasury tax and loan system, about $720 billion a year. We manage this mechanism and we pay, through the Federal Reserve System, those banks. We also maintain other collection mechanisms that bring in another $200 billion approximately.

SYSTEMS MODERNIZATION

We are making those payments and our systems are primarily 1970's technology—a not uncommon complaint in Government. The computer hardware we are using is mid-1970's. In addition, the software that we run on those systems goes back to the 1960's. We are really using obsolete technology.

I am very concerned about the amount that we have in FMS's budget, because our payment system is quite old. It is critical to the country that those 750 million payments be made.

Senator MIKULSKI. While you have $8.4 million for systems modernization, which seems like an overall increase, you are saying that it has been skimpy all along. In fact, quite skimpy.

Mr. DOUGLAS. That is correct. Our increase this fiscal year, fiscal year 1989 over fiscal year 1988, Madam Chairman, is approximately $15 million. Of that, almost two-thirds is what we call maintaining the current level, inflation if you will. It is the cost of doing business in fiscal year 1989, doing precisely the same things that we were doing in fiscal year 1988. In other words, these increases are not for initiatives. Approximately two-thirds of that $15 million increase comes from maintaining the same level of service to our customers, your constituents, and there just happen to be additional costs.

We are asking for some additional money, $8.4 million, for initiatives. I have a chart that I think really will illustrate for you very well that initiative money.

The sliver you see in this pie chart, $8.4 million, are the moneys we are asking for in fiscal year 1989. Over a 5-year period, starting in fiscal year 1989, if we receive these moneys, we will return to the taxpayers and to the Government a payoff of $740 million.

Senator MIKULSKI. What are those initiatives?

Mr. DOUGLAS. We have cash management and credit administration responsibilities. We work with Government agencies to try and improve financial management in Government. We also have an initiative to do some better reporting of information into the central accounting system of the Federal Government.

I mentioned old systems. All of the information which you in Congress receive, all of the information that goes to the Congressional Budget Office, all of the information which is used by the executive branch, including OMB, comes through the Financial Management Service. We are the hub for all of that financial reporting, and we are doing it with a software program that is at least 35 years old. It needs replacing. It just simply doesn't give you, the Congress, or the executive branch good information. It doesn't give it to you on a timely basis nor is the information complete.

SECURITY EFFORT

Senator MIKULSKI. Which then must take us to the issue of service-wide security. Again, you are asking for a rather large increage for this. I am wondering if you could describe what it is you want to accomplish. Again, if this is where we choose some savings, what will be the effect?

Mr. DOUGLAS. That is a very good question.

Senator MIKULSKI. You have the same problem that people in the private sector are advising me about, that computer security is one of the biggest challenges facing our country today, security from everything from privacy of information to embezzlement.

Mr. DOUGLAS. Yes.

Those are excellent points because the cash flow, and we have tried to depict it here with this chart, the cash flow of the Federal Government—the payments side and the collections side—is $2 trillion a year. The very tiny bar shown on this chart, at the bottom, is $2.9 million, for our security effort—part of the $8.4 million that I talked about earlier. This effort is to improve the security of managing $2 trillion a year cash flow, incoming collections, and outgoing payments.

I mentioned that our computer systems are old and decrepit, and they are. But your point is excellent. Times change, even if our computer systems don't, and the threat to systems that handle large sums of money is really frightening.

With the $2.9 million, there are some things that we are going to do, software programs that help protect our computer systems from external threats. There are physical security aspects, for example, intrusion alarms and card key entry electronic systems to prevent access by people into areas where they don't belong.

There is a small amount of money for additional guard service. Very importantly, we have a small amount of money in that $2.9 million to allow us to continue to perform risk analyses because you cannot just say, well, we got by last year—nothing happened, so that is all right. We are continuing to assess our situation.

Senator MIKULSKI. You have to do the war games, anticipating, and testing out.

Mr. DOUGLAS. That is correct. As we see areas where we think there is some softness, then we have to do something about it, and that is why we asked for the $2.9 million.

AREA OF VULNERABILITY

Senator MIKULSKI. Mr. Douglas, what do you think is the biggest area of vulnerability? Is it in protection of sensitive information, or is it more what you and I would know as overt criminal activity like embezzlement?

Mr. DOUGLAS. One of the problems with computer crime, as experts will tell you, is we don't know what all the problems are. We don't know where all of the attempts might originate.

Our experience is that our internal controls and internal security have been tested more than if someone were trying to come from outside the system. We do deal with a very severe problem with checks, of course, people stealing and forging them, but that is not a system problem—it is a different kind of crime.

Senator MIKULSKI. That is a street crime as compared to a computer crime.

Mr. DOUGLAS. Yes; we handle the nonreceipt claims on checks. Not only do we make 750 million checks a year, but we also handle over 1 million nonreceipt claims.

Senator MIKULSKI. The volume that you handle is stunning. Obviously, most Americans don't see you, but they see you when it goes wrong.

Mr. DOUGLAS. That is exactly right.

FEDERAL WORK FORCE

Senator MIKULSKI. I would just like to take 1 minute, if I could, on the issue of the work force. First of all, how many employees do you have, Mr. Douglas?

Mr. DOUGLAS. We have about 2,300. In fact, in our fiscal year 1989 appropriation request, we are asking for 2,323 FTE's.

Senator MIKULSKI. Probably you are one of the smaller agencies, given the volume that you handle.

Mr. DOUGLAS. Yes.

Senator MIKULSKI. Are you a career civil servant?

Mr. DOUGLAS. Yes; I am.

Senator MIKULSKI. What rating are you, and why are you here?

Mr. DOUGLAS. I am what is called an ES–5.

Senator MIKULSKI. Obviously, someone with the kind of management capability that you have, to handle the volume, requires great integrity. I don't ask you this to embarrass you, but this issue of our work force needs, and particularly work force in civil service, is something that I am spending a lot of time on.

How long have you been in civil service?

Mr. DOUGLAS. About 30 years. I spent about 22 years with IRS before I came to this job.

I like what I am doing. We are doing very important things.

Senator MIKULSKI. You absolutely are.

Mr. DOUGLAS. No one manages more money than we do in the Financial Management Service. We manage over $9 billion every business day, incoming and outgoing. We are involved in working with agencies to improve their cash management and credit administration, the payments side and the collections side. We do all the central accounting for the Federal Government, all the trust fund accounting. It is interesting and it is important, and I think that people need to feel that they are doing something important.

Would I follow the same path if I were doing it over again, I am not sure.

Senator MIKULSKI. Is it for the reasons that I outlined earlier, when you heard me talking about IRS's problems?

Mr. DOUGLAS. I think that if you were to find someone in the private sector who had a job somewhat comparable, assuming that there is with that kind of volume of money, they would be making a dollar or two more.

Senator MIKULSKI. Are you having any difficulty recruiting your people for financial management?

Mr. DOUGLAS. Yes; we do. We have a lot of accountants, like IRS, and we have some of the same problems they do when they try to recruit for revenue agents, for example.

We have a lot of computer operations, as we discussed earlier. Recruiting computer people is difficult, and part of the problem is the pay scale, and another problem is the age of our systems.

Senator MIKULSKI. A doctor is not going to go to a hospital where they have a machete. If you are well trained, you want to go where you will have tools to do the job.

Mr. DOUGLAS. Exactly.

Senator MIKULSKI. A professional wants to have the tools.

Mr. DOUGLAS. We lose people who say, we like working for you and we know it is interesting, but not only can we go somewhere else and make more money in the computer field, but we get to work with state-of-the-art equipment and that is exciting. We pay a price for that.

STATE-OF-THE-ART EQUIPMENT

Mr. MURPHY. One of the ironies, Madam Chairman, is that the Financial Management Service is looked upon as the leader in the Federal Government in the financial management arena, yet some of the other program agencies have state-of-the-art equipment which we cannot really accommodate, because they have increased their technological capability at a faster rate than we have.

Mr. DOUGLAS. The Social Security Administration has that.

Senator MIKULSKI. Don't get me started on Social Security, or I will have a psoriasis attack. [Laughter.]

Mr. DOUGLAS. Dorcas Hardy asked her staff people a few months ago an excellent question. She said: Our systems, which we spent so much money to improve, why do they have to connect to those old systems in Treasury, in the Financial Management Service?

They lose some of their utility because we simply cannot interface with their systems.

SYSTEM 90 FUNDING

Senator MIKULSKI. If we come back to the budget item that you requested, will that be adequate? It sounds like it is a first step.

Mr. DOUGLAS. There is $6.8 million for fiscal year 1989 for the computer system—systems 90. The impact is that it is going to take us longer to replace that old system, maybe up to 2 years longer. We had previously scheduled, when we started on this a couple of years ago, that we would get funding in fiscal year 1988, fiscal year 1989, and fiscal year 1990; we would bring a pilot system up in one of our regional financial centers in 1990; and then fully implement in all of our centers across the country in 1991. We will not be able to do that now.

You talked about vulnerability before, that is one of our vulnerabilities, quite frankly—old systems with old software running on it. One of our vendors, the manufacturer of the major systems in our payments process, has already told us that after the end of this year, they are not going to support the software because it is too old.

Senator MIKULSKI. They can't maintain the inventory, and so on.

Mr. DOUGLAS. Their people want to move on to other systems, and people retire who know how to maintain old systems.

Senator MIKULSKI. Did you ask OMB for more money?

Mr. DOUGLAS. Yes; I did.

Senator MIKULSKI. What did you ask OMB for?

Mr. DOUGLAS. In the systems area?

Senator MIKULSKI. Yes; in other words, we are talking here about systems upgrading and system security. This has to be the linchpin of your operation. Without adequate computer systems, one, to deliver the service, and, second, to protect the service, you are vulnerable and we could have the beginning of a collapse. You know what I mean by a collapse, I don't mean catastrophic.

What did you ask for, and I would presume that that is what your true need is?

Mr. DOUGLAS. We asked for an additional $8.8 million for system 90, and we also asked for several million more in security areas. I cannot recall the precise amount, but it was probably on the order of $2 million more for security than what is in the request.

Senator MIKULSKI. You feel, if you were to go to this number that you submitted to OMB, this would give you the opportunity to upgrade yourself within a 2-year period?

Mr. DOUGLAS. We could have a pilot system up in 1990, and absent some sort of unforeseeable thing, we would go operational in 1991.

Senator MIKULSKI. Thank you. This has been a very, very informative conversation.

I would like to thank you, Mr. Douglas, for what you do, because the volume is staggering. It seems to me that you need people who are dedicated, loyal, competent, and meticulous, somebody who really lives and breathes the old fashioned work ethic.

Obviously, you are doing a superb job, and I would like to thank you, and thank your people. Let's see if we can't at least get you some of the tools you need.

Mr. DOUGLAS. Thank you very much, Madam Chairman.

PREPARED STATEMENTS AND ADDITIONAL COMMITTEE QUESTIONS

Senator MIKULSKI. Thank you. We will place your statement in the record and there will be some additional questions which we will submit to you for your response.

[The information follows:]

STATEMENT OF GERALD MURPHY

Good morning, Mr. Chairman and members of the Committee. I appreciate the opportunity to discuss the Fiscal Year 1989 resource requirements of the Financial Management Service.

This request is necessary to fund vital improvements which are critical to meeting the Service's rapidly expanding responsibilities in Governmentwide financial management. The Service has led an ambitious modernization effort throughout the Government to ensure that payments are made in the most effective and cost-efficient manner, that collections are optimized, that Government funds are managed prudently, and that the Governmentwide accounting function is carried out in a timely and accurate manner. By effectively managing the movement of Federal funds as well as making the optimal use of Federal financial information, the Financial Management Service fulfills an obligation to the public to improve the Federal Government's overall financial position and to help reduce the Federal deficit.

The Service is requesting $280,461,000 and 2,323 average positions for FY 1989. This request represents an increase of $15.5 million and 17 average positions over our Authorized Level for FY 1988. Our resource request for FY 1989 will allow us to continue our systems modernization efforts; provide financial leadership within a framework of modern, secure and reliable systems; and continue to respond to our rapidly expanding responsibilities as the lead agency in the Federal Government for cash management, credit administration, financial systems integrity and modern financial reporting.

Mr. Chairman, that concludes my prepared Statement. Commissioner Douglas now will give you some of the highlights of this budget request.

STATEMENT OF WILLIAM E. DOUGLAS

Mr. Chairman and members of the Committee, I am pleased to have this opportunity to present the Fiscal Year 1989 resource requirements of the Financial Management Service (FMS). The mission of the Service is to "promote the financial integrity of the United States Government through sound money management on behalf of the public." The key to accomplishing this mission is to make optimal use of Federal financial information to manage effectively the movement of Federal funds. Looking toward FY 1989, we stand ready to build on our previous successes which lay the groundwork for future efforts.

All activities discussed in this Statement:

(1) Promote effective and efficient financial management systems Governmentwide;

(2) Make financial information available to users and decision-makers;

(3) Provide high quality service to FMS customers; and

(4) Let the needs of customers guide decisions.

In striving to attain these goals, the Service has grasped the leadership mantle of financial management in the Federal Government resulting in the savings of billions of tax dollars. The resource requirements that I present today are aimed at further strengthening the Service's ability to protect the assets of the free world's largest financial organization -- the United States Government -- and increase the confidence entrusted in our abilities by the individual American citizen. Our obligation is to the American public and Congress, and our overall commitment is to excellence.

As cash manager of the majority of Federal cash flows, the Service controls more money than any organization in the world. We manage $2 trillion in collections and payments annually, which amounts to $9 billion each business day. As the Government's "Cash Manager," we project that our cash management and credit administration/debt collection efforts will result in $1.6 billion in savings in FY 1989. In addition, we estimate that we will earn

$825 million in FY 1989 from the Treasury, Tax and Loan (TT&L) Investment Program.

To ensure the successful continuation of these achievements and the further attainment of our goals, we are requesting $280,461,000 and 2,323 average positions for FY 1989. This request includes an additional $8.4 million and 17 appropriated FTEs for initiatives.

I will now review FMS' accomplishments for FY 1987 and planned activities for FY 1988 before discussing the proposed initiatives for FY 1989.

FISCAL YEAR 1987 ACCOMPLISHMENTS

As we look toward FY 1989, it would be useful to survey our accomplishments for FY 1987, a year of numerous outstanding achievements in financial management.

First, let me again stress the point that the Financial Management Service is a "profit center," not merely a "cost center." During the FY 1988 Appropriation Hearing, I made a promise that we could, and would, continue a 10-to-1 return on investment ratio through FY 1988. I am pleased to inform you today that program savings of over $1.5 billion and earnings of over $1.1 billion from the TT&L program resulted in a return on investment ratio of greater than 10-to-1 in FY 1987. It should also be noted that our previous estimate for program savings has once again proven conservative -- the actual savings exceeded last year's estimate by 11 percent.

In our lead agency role we have made major progress Governmentwide in the areas of cash management and credit administration/debt collection. The Internal Revenue Service (IRS) Tax Offset Program, a single debt collection initiative, continues to be an excellent collection tool. This program collected $326 million in the 1987 calendar year -- an increase well over the 1986 calendar year total of $197 million. This two-year legislative initiative has proven to be very successful, with substantial collections projected to continue in 1988. Congressional action is necessary, however, in order to continue this program beyond June of 1988. Given its success, the Administration supports action to extend the program beyond its scheduled expiration date.

Another success in FY 1987 was the launching of Vendor Express, the electronic disbursement of vendor payments. This initiative once again makes FMS the electronic funds transfer (EFT) leader, not just in the public sector but also in the private sector. This program was launched in July 1987 with approximately 32,000 payments per month being processed by the end of FY 1987. By July of FY 1988, over 375,000 vendor payments per month will be processed through this program, increasing to over 750,000 payments per month by July of FY 1989. The Government saves approximately $.23 per payment made through Vendor Express.

Our check reconciliation effort (matching checks paid to checks issued) earned the Treasury well over $46 million in FY 1987 by identifying and resolving overcharges. The check claims activity brought in an additional $62 million through reclamation (recovering funds) from financial institutions.

Other major accomplishments in FY 1987 include:

- $22.9 million in additional interest savings due to a 128 percent increase in dollars flowing through the Lockbox system;
- A ten percent increase in Federal salary (salary/allotment) participation in Direct Deposit to a total level of 66 percent in FY 1987, including the military, and saving the Government $.23 per payment;
- Completion of the final phase of Cash Forecasting Automation, which will reduce the Federal Government's financing requirements by $1 billion to $2 billion each quarter and result in interest savings of $53.2 million annually;
- Implementation and stabilization of the redesigned Check Payment and Reconciliation System which will reconcile all issue and payment information on all Government issued checks;
- Risk management activities, designed to prevent the potential for misuse or abuse of our systems, include:
    - o Formal risk analyses for all major FMS computer facilities,
    - o Card key access control systems installed in four RFCs, and
    - o Improved control of vendor payments through the implementation of new automated systems to aid in the prevention of duplicate payments;

- Initiation of a prototype Electronic Certification system, which when fully implemented, will lead the commercial world. It will provide electronic certification for all payments now being certified on manually prepared vouchers and to improve the efficiency of the payment process by eliminating the front-end paper-based system;
- Development of a prototype financial analysis model allowing agencies to analyze their receivables, and thereby reduce and better manage the overall receivables of the Federal Government; and
- Implementation of a Credit Card contract that will allow program agencies to begin accepting credit card payments by the end of FY 1988. (In 1987, the U.S. Customs Service began accepting credit card payments for port-of-entry duty fees, the Justice Department began accepting credit card payments for magistrate fees and fines, and the U.S. Mint began accepting credit card payments for coin sales.)

Finally, for FY 1987, let me discuss the activity for which FMS has become most widely known, the issuance of payments. In FY 1987, we issued 749 million payments, a volume increase of five million payments over FY 1986. Thirty four percent of these were made through electronic funds transfer, better known as Direct Deposit, the others by check. This is an increase of two percent in the Direct Deposit participation rate from FY 1986. Approximately 44 percent of all Social Security recipients participate in Direct Deposit, up slightly from 43 percent in FY 1986. As millions of Social Security recipients, Federal retirees and disabled Americans have come to expect, these payments were made on time.

Our track record of accomplishments has placed the Service in the position to assume additional leadership responsibilities well into the coming years. With that in mind, I would like to review our FY 1988 activities, which continue to demonstrate FMS' growing responsibilities in Federal financial management.

FISCAL YEAR 1988 PLANNED ACTIVITIES

As I have already discussed, we have taken some very important steps towards increasing our leadership in financial management for the Federal Government. The growing importance of our Regional Financial Centers in providing management services demonstrates the strides that we have made in achieving even more direct involvement with our customers, and further supports our continuing emphasis on the quality of our financial operations.

The Service's expanded lead agency responsibilities in cash management, credit administration/debt collection and financial systems are concrete evidence of the Service's commitment to work in partnership with other program agencies in a Governmentwide effort to improve financial management. We are also improving the quality of the Federal Government's financial information and we will continue to position ourselves as a highly regarded financial consultant and advisor.

Fiscal Year 1988 is nearly half over, and the Service has already taken significant steps toward achieving objectives that I identified to this Committee last year. These activities include:

- Implementation of an Electronic Certification prototype system in the Executive Office of the President and at FMS in early October 1987;
- The redesign of the Central Accounting System (Central Financial Management System), which will save approximately $50 million in FY 1991, maximize access to financial information for retrieval and analysis, and use state-of-the-art technology which is easy to maintain and upgrade as new features are introduced;
- Continued development of System 90 (in FY 1988, the Financial Operations Systems Integrity initiative), including implementation of the agency liaison program to ensure that the needs of agencies affected by System 90 and their customers are met by the new automation system;
- Acquisition of off-the-shelf software for Agency Accounting and initiation of cross-servicing for small agencies by October 1, 1988 -- with projected savings of approximately $9.5 million over the next five years;
- Implementation of "Limited Payability" legislation (Public Law 100-86), which establishes a one-year limit on payability and claimability of U.S. Treasury checks issued prior to or after the effective date, while not affecting the entitlement of the payee;
- Additional risk management activities designed to provide further assurance that a high degree of continuity exists in check processing operations, that automated data and systems are secured, and that the potential for misuse or abuse of these systems are minimized;
- Identification of systems requirements and preparation of a procurement request for redesign of the Federal Tax Deposit (Withholding Tax Program) system, which is projected to generate savings of $57 million in FY 1992 as a result of reductions in the one-day free use of Federal funds by banks and reductions in fee payments to banks for processing Federal Tax Deposits (total savings of $173 million will be realized between FY 1992 and FY 1993, and when fully operational, ten year savings are projected to be $3.8 billion);

- The establishment of three additional financial models, and the publication of a Federal financial assessment guidebook to help agency program managers evaluate their "bottom line" financial performance;
- An increase in Vendor Express payments to 375,000 per month by July of this year representing another step toward increasing EFT participation and decreasing costly check processing;
- An increase in the share of total payments flowing through electronic funds transfer (Direct Deposit) from 34 percent participation in FY 1987 to 37 percent in FY 1988; and
- Expansion of credit card contracts to allow for the acceptance of credit card payments by the Interstate Commerce Commission for duties and fees and the Veterans Administration for medical services.

We will now turn our attention to the future as we discuss the proposed activities for FY 1989.

FISCAL YEAR 1989 INITIATIVES

Underlying the Service's financial management policy throughout the remainder of the 1980's is ensuring that financial resources are used appropriately to achieve national aims, thereby reducing the overall costs to the Government and the American taxpaying public. With our movement into the position of lead agency for Federal financial management, the Service is focusing on several high priority objectives. Funding requested for the following initiatives will help us to achieve those goals.

SYSTEM 90

The implementation of the System 90 initiative will dramatically improve the way FMS does business in the payments and claims areas. This initiative represents an integrated systems approach to modernizing the Service's financial operations to ensure the integrity, security and effective delivery of $900 billion of annual Federal payments and an efficient claims operation.

The systems improvements encompassed by System 90 will generate estimated savings of $14 million annually, provide enhanced security for money transfers, promote electronic funds transfers, improve payment delivery services, and reduce claim settlement time from the current 45 days to 7 days or less.

While no new funding is requested for System 90 in FY 1989, the additional five FTEs and the importance of this ongoing project to the Service's business operations warrants highlighting this initiative in the FY 1989 budget submission. System 90 base funds will cover the costs associated with the FTEs as well as continued development of the integrated system in FY 1989.

Due to the scope of the System 90 project, the benefits associated with these operational improvements extend far beyond FMS to other program agencies and the Federal Reserve System, reflecting the Service's vision of System 90 operations -- the integration of all components of the Government's financial activities into a secure financial management system operating across department and agency lines.

REDESIGN OF THE CENTRAL FINANCIAL MANAGEMENT SYSTEM

A fundamental problem hampering successful Federal Government operations today is the lack of effective management systems, especially in the areas of accounting and budgeting. With this initiative, the Service will continue efforts from FY 1988 to redesign the Central Financial Management System (the Central Accounting System). The Service is responsible for operating and maintaining the budget execution system, one of the Federal Government's oldest financial management systems (the current system is well over 25 years old).

The Central Financial Management System is the source from which the Federal Government develops a comprehensive picture of its financial position. The system produces the Monthly Treasury Statement (which tracks the President's Budget), and identifies the disposition of all Federal cash-based assets and liabilities. Currently, this system is paper-based, labor intensive, error-prone, and often unresponsive to new information needs.

At present, the system suffers from several deficiencies: lack of timeliness -- postponing the availability of needed financial results for nearly a month; restricted access to information -- making information, other than that which is currently available, virtually inaccessible without extraordinary effort; lack of financial analysis -- making it difficult to examine and interpret financial results; and an inability to develop graphics presentations -- precluding the translation of large quantities of data into easy-to-read graphic presentations to facilitate the decision-making process.

This improvement in information management offers the potential for Governmentwide savings of approximately $50 million in FY 1991 through improved asset management within program agencies by maximizing the use of existing resources; maximizing the access to financial information for retrieval and analysis; and using state-of-the-art technology -- easy to maintain and upgrade as new features are introduced. Furthermore, the redesigned Central Financial Management System will meet the requirements for efficient, integrated, automated, and standardized financial management systems.

OPERATIONAL UPGRADES

This initiative supports basic equipment needs for the Service's critical business operations, allowing replacement of some of the obsolete and inadequate equipment that increases FMS' vulnerability to service interruptions. This initiative permits FMS to continue providing high quality financial management service to its customers through the use of more reliable and cost-efficient automation equipment.

Acquisition of a laser printer will enable FMS to reduce paper and supply costs by $170,000 annually. The laser printer will also eliminate many of the labor intensive operations associated with report production and ensure the ability of the central computer facility to adjust to unplanned workload increases without disruption of normal operations. In addition, acquisition of paper check processing equipment will allow us to re-automate check sorting and processing activities.

AGENCY ACCOUNTING

The President's Management Improvement Program calls for the Service to provide accounting cross-servicing to Government agencies in FY 1989. The Service will deliver high quality accounting cross-servicing to small agencies and offices as an alternative to each agency building and maintaining agency-specific accounting systems. This project supports the Service's role as lead agency with operational responsibility for financial management systems reform.

To carry out these responsibilities, the Regional Financial Centers (RFCs) will offer a full range of administrative financial services. More specifically, the RFCs will use a financial database and telecommunications to consolidate the agency's accounting data and ensure that Government agency and office reports conform to the requirements of the General Accounting Office, the Office of Management and Budget (OMB), and the Treasury Department. The Service will use the existing "off-the-shelf" equipment to provide this cross-servicing and save individual program agencies the cost of developing and implementing similar systems.

SERVICEWIDE SECURITY

The Servicewide Security Program is a vital means of reducing the risk and exposure to the Federal Government's financial assets of approximately $2 trillion. As the Service carries out its commitment to excellence in operations, there is an obligation to provide an environment that properly safeguards assets, financial systems and sensitive information. This program directly supports objectives to improve security throughout FMS, with the overriding purpose of creating a secure environment in which the Service can achieve its mission.

The Service is requesting funds to install security software packages that will audit access and restrict processing on major computer operating systems. At the present time, the Service's large-scale systems employ limited password protection and there is no method to monitor or control activities conducted on individual operating systems, especially in the Regional Financial Centers.

The Service's existing physical security and space configurations provide only limited protection for the billions of dollars of negotiable checks, blank check stock, and computer hardware and software located in the Centers.

This initiative will provide modern technological applications to protect our considerable assets and to control access to sensitive operations. It will also protect operations, equipment, and personnel by providing fire suppression equipment and port protection devices for computer and work areas. Extensive alteration of space will be required in many Service facilities to support the installation of these necessary security and protective systems -- eliminating the potential hazards to the safety of employees and operations. This initiative will also provide the necessary expertise to begin risk analysis of the Government's collection mechanisms.

WORKING CAPITAL IMPROVEMENTS

Finally, the Federal Government has within its grasp the capability to create and institutionalize a comprehensive and cohesive financial management program. If successful, such a program has the potential to realize interest savings in the billions of dollars and deficit reductions in the tens of billions. As recently as January 1988, a joint letter between Treasury, OMB and the Comptroller General reaffirmed the Federal Government's commitment to this ideal.

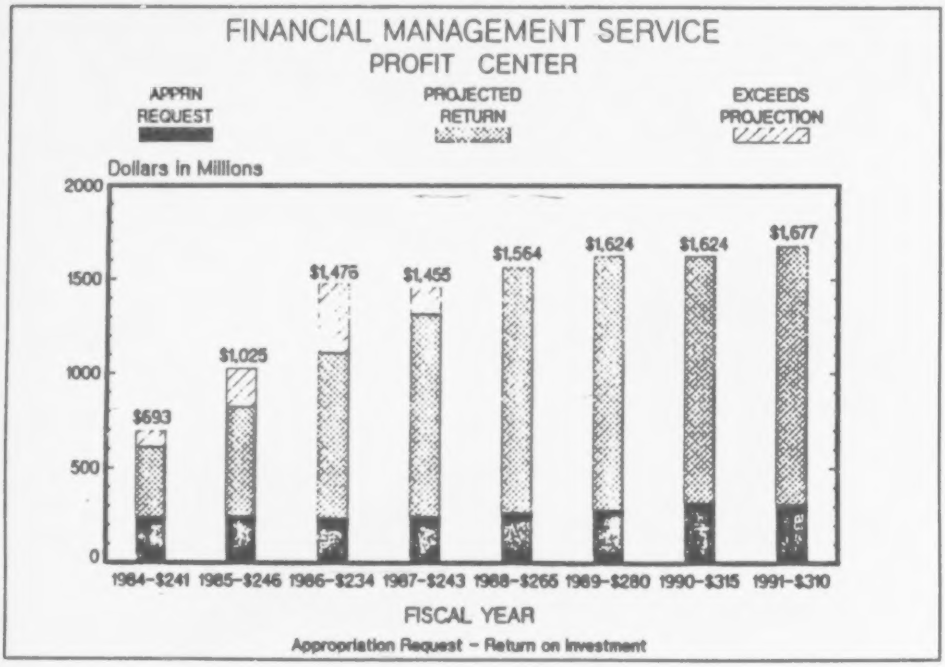
As the lead agency for credit administration/debt collection, the Financial Management Service must focus on reducing the number of incompatible systems and operations that agencies use to accomplish debt collection servicing activities. This program will assist Federal agencies in establishing Governmentwide credit policies and standards, issuing guidelines, and providing consulting and advising services. An account servicing modernization program will identify and develop standards for credit file structure and utilization; provide agencies with information on tools and techniques for debt management; and provide consulting services or technical assistance to accelerate the use of these tools to reduce delinquent debt.

This program will produce savings of approximately $460 million from FY 1989 through FY 1993 as a result of accelerated collection of agency debts, elimination of delinquent debts over one year old, and accelerated collection of debts under one year old.

Lastly, as lead agency for cash management, the Service will continue to provide direct support to all Federal agencies in reviewing cash flows and identifying collection programs which can be converted to more efficient electronic systems. The Federal Withholding Tax Program, which in FY 1987 collected approximately $700 billion -- or 65 percent of all Government receipts -- is over 40 years old. It has not kept pace with technology, and is limited by manual processes which are costly to the Federal Government in terms of bank processing redundancies and the use of Federal funds by banks. This program seeks to design and test a new withholding tax collection system beginning in FY 1989 with implementation being phased-in during FY 1992. This effort is projected to generate savings of $173 million from FY 1992 to FY 1993 as a result of reductions in the one-day use of Federal funds by banks and reductions in fee payments to banks for processing Federal Tax Deposits. When fully operational, ten-year savings from this effort are projected to be $3.8 billion. IRS, FMS and Treasury are all working together to integrate this system into the IRS Tax Redesign Program.

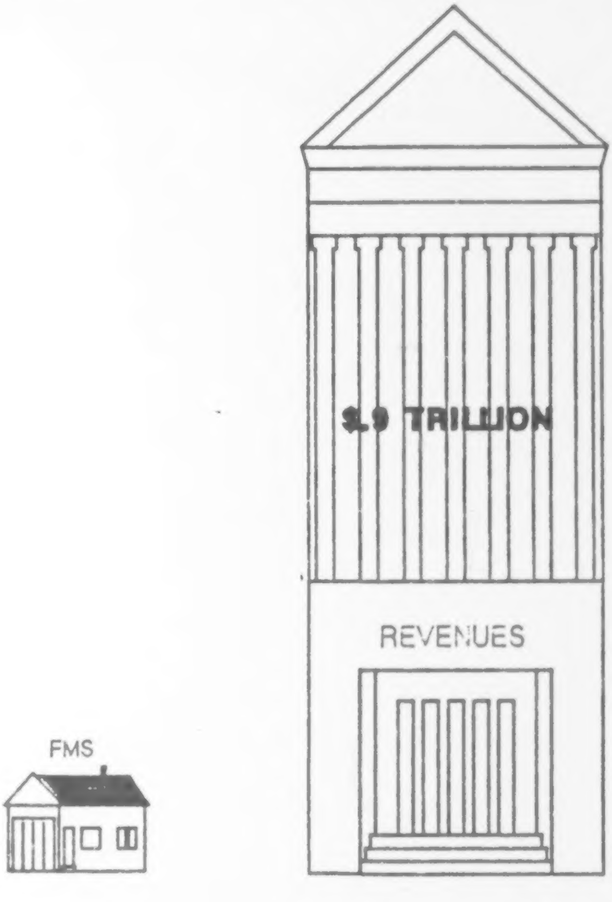
CONCLUSION

Improving Federal financial integrity is a prime directive for the Financial Management Service. Let me say again, Mr. Chairman, we stand ready for that task. To accomplish it, FMS is striving to provide the quality of financial information and improvements necessary to enable financial systems to deliver better information more effectively. Indispensable elements in responsible decision-making require knowledge about costs and an awareness of the financial consequences of decisions and program directions. To expect that such knowledge and awareness will answer the many questions confronting public policy is an overstatement, but accurate, timely and factual financial information must be injected into policy debates to provide decision-makers the opportunity to make decisions which consider pertinent facts and assess potential consequences.

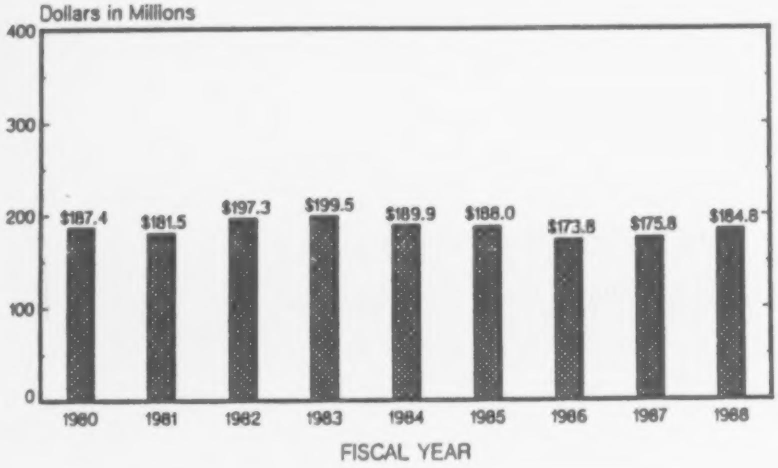


FINANCIAL MANAGEMENT SERVICE

Collection Mechanisms for Government Revenues


$.9 TRILLION
REVENUES
FMS

FINANCIAL MANAGEMENT SERVICE
BUDGETS IN 1980 CONSTANT DOLLARS



FINANCIAL MANAGEMENT SERVICE
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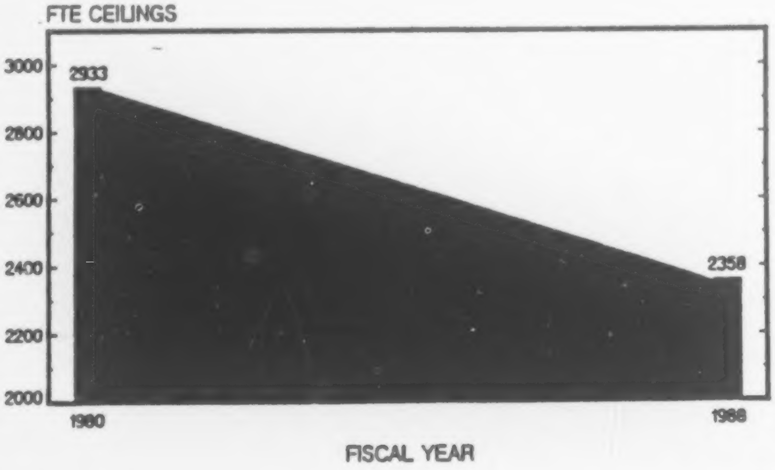
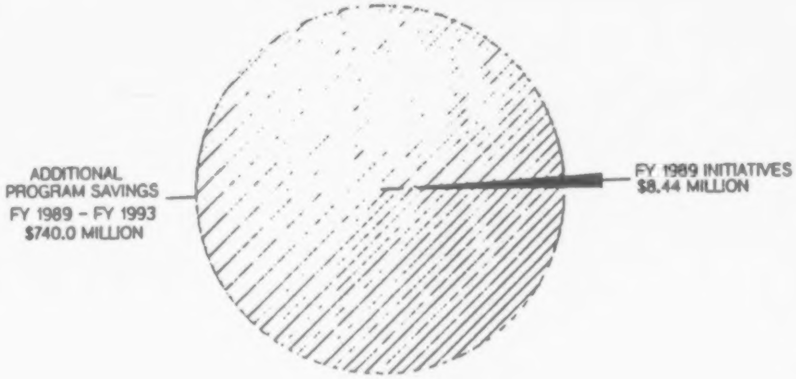
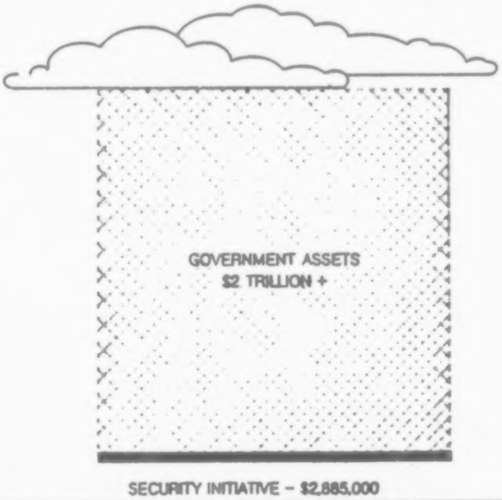


FINANCIAL MANAGEMENT SERVICE
FY 1989 Improvement Projects



FINANCIAL MANAGEMENT SERVICE
SECURITY - Protecting our Assets


GOVERNMENT ASSETS
$2 TRILLION +
SECURITY INITIATIVE - $2,885,000

ADDITIONAL COMMITTEE QUESTIONS

SYSTEM 90 FUNDING

Question. Your budget justification indicates that System 90 is the Service's number one priority yet no additional funding is requested for this initiative in Fiscal Year 1989 and the five additional positions proposed for Fiscal Year 1989 are to be funded from the base program. If System 90 is the Service's number one priority, why are no additional funds being requested for the program out of the Fiscal Year 1989 funding increase proposed for the Service?

Answer. We feel that the level of funding requested will allow us to continue development of System 90 at a pace which will permit proper evaluation of the system design.

SYSTEM 90 IMPLEMENTATION

Question. Will the effect of the proposed request be to delay the implementation of this system another year? What impact will this have?

Answer. FY 1989 resources will allow FMS to begin software development, initiate site modification in the pilot Regional Financial Center (RFC) facility, and install one telecommunication network interface between the development site and the pilot RFC.

Any reduction to the requested funding level, however, could delay System 90 implementation and force the Service to continue providing service to the public with obsolete 1970's technology and equipment. As equipment continues to age and contractor support of our systems is discontinued, maintenance costs increase and FMS becomes increasingly vulnerable to work stoppages. The existing systems severely limit FMS' ability to enhance or improve payment applications for the approximately 750 million payments made annually, provide an acceptable level of claims processing, provide automation of internal accounting processes, or ensure systems integrity.

USE OF SOCIAL SECURITY TRUST FUNDS TO REIMBURSE THE FINANCIAL MANAGEMENT SERVICE

Question. This Subcommittee initially proposed in the Fiscal Year 1988 Appropriations bill that the Social Security Trust Fund reimburse the FMS for the costs of Social Security benefit payment processing. The Trust Fund would reimburse FMS, rather than making an adjustment to the General Fund for the amount owed FMS, as is done now. The Subcommittee had to delete that provision last year because, even though it does not impact the budget totals, it would have moved this cost from the receipt side of the budget to the spending side, and a revenue loss prohibited by the Budget Act would have been scored against the Bill.

Despite this, would you recommend this as a good budget accounting policy?

Answer. Yes, the Financial Management Service (FMS) -- and the Department -- would recommend this because it is efficient budget accounting policy. The Service continues to support, as it has in the recent past, legislation which would allow the Social Security Trust Fund to reimburse FMS directly for the cost of these services rather than go through the appropriations process. Such an arrangement has been in place for the Railroad Retirement Account since the 1950's. This legislation should be phased-in with authorizing legislation and should project an implementation date.

The Secretary, in his testimony before this Subcommittee last year, also supported this accounting concept when he stated that if such an amendment were to become part of this year's Appropriations Act it would, based upon our most current calculations, allow a reduction of $90 million in direct appropriations to the Financial Management Service while preserving oversight to the Congress of our billings against the Trust Funds.

SIMILAR TRUST FUND TRANSACTIONS

Question. How many other Trust Fund transactions are there similar to Social Security, where FMS is processing benefit payments but not being reimbursed?

Answer. FMS has several accounts that are similar to the transaction for the four Social Security Trust Funds in which FMS processes benefit payments but is not directly reimbursed. These accounts include the Unemployment Trust Fund and the Black Lung Disability Trust Fund.

TREASURY TAX AND LOAN PROGRAM

Question. Would you please describe how the Treasury Tax and Loan Program works and how the FMS earns money from that Program?

Answer. The Treasury Tax and Loan (TT&L) account system has four principal purposes: to reduce the impact of Treasury operations on the banking system, to facilitate monetary policy, to foster the distribution of Treasury securities, and, most importantly, to provide a collection system (Federal Tax Deposit System) for Government revenues. It was initiated in 1917 and over the years it has been improved and expanded. In 1919, it was required that Federal income taxes be deposited in the accounts; and during World War II the withholding of income taxes was initiated to facilitate the massive tax collections required. Beginning in 1948, banks were given permission to credit to the accounts receipts of withheld income taxes, which previously had been turned over to the Federal Reserve Banks; and the accounts began to be used for deposits of payroll taxes from Social Security. Since then, other taxes have been made eligible for deposit in these accounts.

A major change to the TT&L accounts was initiated in 1978 with the establishment of the present investment program, under which FMS deposits Treasury's excess cash balances with 3,500 participating banks to earn interest for the Government. These are the Governmentwide interest earnings FMS reports on from this program. In FY 1987 actual TT&L earnings were $1.2 billion, and we project that in FY 1989 earnings will be close to $1.0 billion.

IRS TAX OFFSET PROGRAM

Question. You note that the two-year IRS Tax Offset Program initiative has been a successful debt collection effort. What collections are projected from this program in fiscal year 1988?

Answer. Collection projections for the IRS Tax Offset Program are made by calendar year versus fiscal year due to the nature of the program. Based on a conservative estimate whereby it was assumed that tax reform would reduce the amount of tax refunds in calendar year 1988, it was originally projected that $266 million would be collected through either offsets of IRS refunds or through voluntary compliance of individuals after receiving notice that an offset might occur. As of March 11, 1988, however, we have collected $118 million. This amount compares favorable with last year's progress through March, and ultimately collections totaled $326 million in calendar year 1987.

EXTENSION OF THE IRS TAX OFFSET PROGRAM

Question. You mention that the Administration supports action to extend the IRS Tax Offset Program beyond its scheduled expiration date of June, 1988. Is legislation being submitted to accomplish this?

Answer. Yes, legislation to extend the IRS Tax Offset Program has been submitted under two bills -- the Welfare Reform bill and a tax issues bill.

The Welfare Reform bill was passed by the House extending the IRS Tax Offset Program three years. This bill is presently being reviewed by the Senate Finance Committee and is expected to come out of Committee in late Spring.

The tax issues bill was passed by the Senate on March 21, 1988 extending the IRS Tax Offset Program one year. This bill has not yet been introduced in the House.

SAVINGS FROM CREDIT CARD TRANSACTIONS

Question: You note that Electronic Funds Transfer saves the Government approximately $.23 per payment. What are the savings from credit card transactions?

Answer: The $.23 savings resulting from Electronic Funds Transfer primarily reflects savings in postal costs at the old rates. Each mailed payment costs the Government $.18 in postage costs at the current postage rates. The other $.05 in savings result from the non-use of paper supplies, printing, check stock, etc. These savings are reflected in the Financial Management Service' (FMS') Appropriation Request.

Most credit card transactions, however, represent payments coming into the Government. For example, some Custom Duty Fees and Mint Gold Coin purchases are now made with major credit cards. Savings result from quicker deposits and earlier availability of funds (which earn interest for the Government), elimination of expensive exception processing of bad checks, and increased sales of many Government services. These are Governmentwide savings and are not reflected in the FMS Appropriation Request.

The Federal Government also uses credit card transactions in payments going to vendors. For example, many Federal Government employees use Diners' Club credit cards when on official travel. In addition, some Government Agencies use credit cards in lieu of maintaining large cash balances which earn no interest and which cause special control and accountability problems. The major benefit of these transactions is the increased availability of funds to the U.S. Treasury (increased float time) and the added convenience afforded the Government traveler.

During FY 1988, the first full year of the FMS initiative, approximately $250 million will flow through the credit card payment and collection system.

This cash flow will result in Governmentwide savings of approximately $2 million. By FY 1989, the cash flow through this system is estimated at $1 billion, with Governmentwide earnings/savings of approximately $8 million. By FY 1991, over $6.5 billion is expected to flow through the credit card system, with earnings/savings of well over $52 million. Again, these figures are Governmentwide, and will not be reflected in the FMS Appropriation Request.

COST OF BLUE PAPER ENVELOPES FOR SUPPLEMENTAL SECURITY INCOME PAYMENTS

Questions: You note in your budget justification that a large increase in your check envelopes and check wrapping supplies cost is due to blue paper envelopes being required for Supplemental Security Income (SSI) Payments --blue paper being $.10 more per pound than brown kraft paper. Is the blue paper for SSI payment envelopes being required by statute? What savings could be if brown paper was used instead?

Answer: The use of blue paper envelopes for SSI payments is not mandated by statute, but results from an agreement between the Financial Management Service and the Social Security Administration (SSA). The blue paper is used by SSA field workers to distinguish between SSA payments and SSI payments when beneficiaries call to discuss benefit problems. SSA feels that the blue paper is successful in aiding beneficiaries to distinguish between the two program benefits with the result being quicker claims processing.

The use of the blue paper will cost FMS $400 thousand in FY 1989.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

DEBT COLLECTION

Question. On page 3 of your Statement, you indicate with pride that the IRS Tax Offset Program has collected $326 million in 1987, with substantial collections projected to continue in 1988. This program is used to help you in your lead role in Federal Debt Collection.

Frankly, with total outstanding non-tax Federal debt (both individual consumer and corporate delinquent debt due Federal agencies) now in excess of $26 billion, I find $326 million to be a major disappointment. Even if you assume we can only get 10% of the non-tax debt through deducting the debt from tax refunds, we should be getting over $1 billion a year just from the IRS Tax Offset Program.

Why are we not able to collect more overdue non-tax debt through the IRS Tax Offset Program?

Answer. The driving factors behind the volume of dollars collected through the IRS Tax Offset Program are as follows: (1) Agencies' valid and enforceable debt records must first match with the IRS Individual Master File (IMF). Over the three years of the program's existence, only 89% of the agencies' debts referred were on IRS files; (2) Once agency delinquent debt records match the IMF, in order to offset what the taxpayer owes the Federal Government, the taxpayer must be eligible for a refund. Over the first two years of the pilot program, 46% and 44.5% respectively, of the "flagged" debtor accounts were eligible for a refund; (3) The program can only collect, in one tax year, the amount of refund due to the debtor. In 1986 the average offset refund was $548, in 1987 it was $473, and so far in 1988 the average offset refund has been $527.

In addition, the current IRS regulations limit the use of the program as the debt collection method of last resort. For example, of the $26 billion you referred to, in 1987, only $2.4 billion (approximately 9%) of that amount was available for possible offset. To increase the collections of the IRS Tax Offset Program to $1 billion a year, as suggested, would require at least a six-fold increase in the number of accounts that IRS processes. This would severely strain their operational capacity to handle such a workload for a pilot program, and interfere with their ability to maintain properly the administration of the nation's tax system.

DIRECT REIMBURSEMENT BY SOCIAL SECURITY TRUST FUNDS

Question. Last year, Senator Domenici and I tried to push through an amendment in the Treasury Appropriation Bill that would have enabled the Social Security Trust Fund to directly reimburse the Financial Management Service (FMS) for the cost of processing their benefit payments. It would have saved FMS about $80-90 million in appropriations. However, after initially crediting our Subcommittee with the savings, CBO changed its mind and called it "a wash". Maybe, we will have better luck with CBO this year.

What are your projected savings in your Fiscal Year 1989 budget if we were to allow Social Security to pay you directly next year rather than pay into the General Fund?

Answer. Direct reimbursement by the Social Security Administration would allow FMS to reduce its appropriation request funded by direct appropriation from the General Fund by $90 million.

SUBCOMMITTEE RECESS

Senator MIKULSKI. The subcommittee will stand in recess until March 25 at 9:30 a.m., in SD–124, where it will continue its hearings with testimony from the National Archives and Records Administration, the Secret Service, and the Administrative Conference of the United States.

[Whereupon, at 12:28 p.m., Monday, March 21, the subcommittee was recessed, to reconvene at 9:30 a.m., Friday, March 25.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1989

FRIDAY, MARCH 25, 1988

U.S. Senate,
Subcommittee of the Committee on Appropriations,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SD–124, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Mikulski, and D'Amato.

DEPARTMENT OF THE TREASURY

U.S. Secret Service

STATEMENTS OF:

- **FRANCIS A. KEATING II, ASSISTANT SECRETARY, DEPARTMENT OF THE TREASURY**
- **JOHN R. SIMPSON, DIRECTOR, U.S. SECRET SERVICE**

ACCOMPANIED BY:

- **EDWIN A. VERBURG, DIRECTOR, OFFICE OF FINANCE, DEPARTMENT OF THE TREASURY**
- **STEPHEN E. GARMON, DEPUTY DIRECTOR, U.S. SECRET SERVICE**
- **DAVID C. LEE, ASSISTANT DIRECTOR FOR ADMINISTRATION, U.S. SECRET SERVICE**
- **GUY P. CAPUTO, ASSISTANT DIRECTOR FOR PROTECTIVE OPERATIONS, U.S. SECRET SERVICE**
- **JOSEPH R. CARLON, ASSISTANT DIRECTOR FOR PROTECTIVE RESEARCH, U.S. SECRET SERVICE**
- **KEVIN R. HOULIHAN, ASSISTANT DIRECTOR FOR INVESTIGATIONS, U.S. SECRET SERVICE**
- **DON A. EDWARDS, ASSISTANT TO THE DIRECTOR FOR TRAINING, U.S. SECRET SERVICE**
- **FRANK PALMER, CHIEF, FINANCIAL MANAGEMENT DIVISION, U.S. SECRET SERVICE**

PREPARED STATEMENTS

Senator DeConcini. The subcommittee will come to order.

The Treasury, Postal Service, and General Government Subcommittee will continue its fiscal year 1989 appropriation hearings by receiving testimony from John Simpson, the Director of the U.S. Secret Service;

Dr. Don Wilson, Archivist of the United States; and Mr. Marshall Breger, Chairman of the Administrative Conference.

We welcome all of you here. Due to time constraints, we would ask that you summarize your statements, your full statements will be in the record.

[The statements follow:]

STATEMENT OF FRANCIS A. KEATING II

I am pleased to appear before you today in support of the appropriation request of the U.S. Secret Service for Fiscal Year 1989. With me today are the Director, John R. Simpson, key staff members, whom Mr. Simpson will introduce, and Jill E. Kent, Acting Assistant Secretary of the Treasury (Management).

The appropriation request for Fiscal Year 1989 is $352,000,000 and 4,468 staff years. This is a decrease of $15,000,000 from the Fiscal Year 1988 Appropriation. The monetary decrease is due largely to the non-recurring costs of the 1988 Presidential Campaign, which will be fully completed during the first half of Fiscal Year 1989.

As you know, Mr. Chairman, fulfilling its protective mission is the highest priority of the Secret Service. They have carried out this critical mission in an outstanding manner and they are continuing to meet the protection demands imposed by the 1988 Presidential Campaign. Although the bulk of this workload is occurring in Fiscal Year 1988, the function will extend into Fiscal Year 1989, as the Secret Service provides protection for nominees and their spouses.

Election years are always times of peak workload for the Secret Service's protective forces. To help meet this demand, Treasury law enforcement bureaus provide Special Agents from their ranks to assist the Secret Service. The Secret Service also receives support from other Federal law enforcement agencies as well as state and local agencies. The Secret Service trained 2,300 personnel from other agencies for the 1988 Presidential Campaign.

In addition to the challenges posed by candidate and nominee protection, the Secret Service faces an overall protective mission that is becoming increasingly difficult. The unpredictable threat of terrorism is certainly a factor, as it requires that additional effort be directed to providing a secure environment for our protectees. The Service has responded to this threat in a number of ways, including an emphasis on enhanced training, visitor screening, detection of explosives, and counter-assault techniques.

Another factor in the difficulty of meeting protective demands has been a growth in workload. Some statistics from Fiscal Year 1987 illustrate this point. That year, the Secret Service processed 1,333,000 visitors to the White House, an increase of 25 percent over the previous year. That same year, the Foreign Missions Branch of the Uniformed Division provided security for 436 missions and embassies.

Also in Fiscal Year 1987, the Secret Service established 171 security details for visiting heads of State and Government, who had an average stay of 5.9 days per visit. In protecting foreign heads of State and official visitors, the Secret Service responded to the need for protective work during the United Nations Assemblies, a Caribbean Conference in Miami, the Pan American Games, the International Monetary Fund Meeting, and the visit of General Secretary Gorbachev in December 1987 for the Arms Summit Meeting.

One of the most noteworthy events, however, was the visit of Pope John Paul II. His visit was comprised of 114 major appearances in 11 days, covering nine cities. There were 12 outdoor masses, the largest one attended by almost one million people.

While protection is its highest priority, the Secret Service has also demonstrated its skill and dedication by performing its criminal investigative missions in an exemplary manner. The goal of the Secret Service is to promote a balance between investigative and protective duties, because they have found that investigative skills reinforce a Special Agent's protective skills. The

Service's expanding investigative jurisdiction has complemented and strengthened its protective capabilities.

As our society moves from conducting its financial transactions primarily with currency and paper checks, to an era in which electronic and computer based systems predominate, the Secret Service's workload in combatting fraud involving computers, credit cards, and electronic funds transfer continues to grow. These highly complex investigations most often involve "white collar" criminals or organized criminal enterprises. They require a great deal of manpower, technical expertise and equipment. Secret Service investigators and technicians have earned a reputation for leadership and effectiveness in this emerging field, among the various law enforcement agencies and in the financial community as well.

The Secret Service continues to do an outstanding job in the suppression of counterfeiting activities. In Fiscal Year 1987, counterfeit notes with a face value of $62.3 million were seized before being passed on to the public. This figure represented 87 percent of the known $71.6 million in counterfeit notes and coins produced. Secret Service investigations uncovered and suppressed 183 counterfeit plants, an increase of 35 percent over 1986.

Currently, the Secret Service is working to strengthen further its enforcement of counterfeiting activities. They have established a computerized system to improve their ability to search for and classify new counterfeit notes. A permanent Service Service office in London, England, is now augmenting the Service's ability to attack international counterfeiting of U.S. dollars. Forty percent of the counterfeit circulated in the United States last year was produced overseas. Overseas offices provide the Service with a permanent and cost-effective deterrent to this criminal activity.

The Treasury Department is very proud of the outstanding work that the Secret Service has performed. Both in its protective mission and its criminal investigations, the Secret Service has fulfilled its responsibilities with exemplary professionalism and dedication to duty.

Mr. Chairman, this concludes my opening statement. I will now ask Mr. John Simpson, Director of the Secret Service, to provide you with his prepared statement, and we will then be pleased to respond to questions you or other members of the committee may have.

STATEMENT OF JOHN R. SIMPSON

Mr. Chairman, I am pleased to appear before you and the other members of this Committee to present the annual appropriation request of the United States Secret Service and to report on our activities during the current and past fiscal years.

Introduction of Associates

With me today, Mr. Chairman, is the Deputy Director, Mr. Stephen E. Garmon, Mr. David C. Lee, Assistant Director for Administration, Mr. Guy P. Caputo, Assistant Director for Protective Operations, Mr. Joseph R. Carlon, Assistant Director for Protective Research, Mr. Kevin R. Houlihan, Assistant Director for Investigations, Mr. Don A. Edwards, Assistant to the Director for Training, and Mr. Frank Palmer, Chief of our Financial Management Division.

The pending appropriation request for Fiscal Year 1989 totals $352,000,000, a decrease of $15,000,000 when compared with the authorized level for Fiscal Year 1988 of $367,000,000. This net decrease reflects Program Increases of $16,296,000, Maintaining Current Level cost increases of $12,265,000, and a reduction of $43,561,000 for non-recurring costs and savings. The program increases will fund additional positions, technical security and protective requirements, continuation of support to our Information Systems program, and continuation of our Headquarters consolidation effort.

Summary of Secret Service Activities

The past year has shown a significant increase in the diversified activities of the Secret Service. A multitude of resources were devoted to preparing for Campaign 88. During Fiscal Year 1987, we finalized protective planning for the 1988 Presidential Campaign, including staffing assignments and training for the onset of Presidential candidate protection. We were also responsible for providing a secure environment for our permanent protectees and prominent world leaders visiting the United States. The Service protects visiting foreign leaders and enables them to safely conduct business here that has worldwide implications. Our role becomes even more difficult when faced with the unpredictable nature of terrorism, which may be imported from other countries. Therefore, it is all the more critical that we attain the necessary resources to do a successful job.

Fiscal Year 1987 was one of historic events and great strides forward for the Secret Service. Our most noteworthy responsibility was to provide protection for Pope John Paul II while working within a very limited time frame. His visit to the United States was the single, most demanding protective event in our history. It was comprised of 114 major events in 11 days, covering nine cities. There were 12 outdoor masses, the largest one attended by almost one million people. The magnitude of the events surrounding his stay required monumental security arrangements, as did Secretary Gorbachev's visit in December for the Arms Summit Meeting. Extensive security preparations spanning Fiscal Years 1987 and 1988 were required. Unprecedented protectee travel continues to present formidable challenges. Throughout this fiscal year and next, widespread coordination will be crucial to establish new President, Vice President, and family details as well as the former President Reagan detail.

We must continue to closely assess the erratic nature of international terrorism and its everpresent threat to our protectees and facilities. With the resources provided by Congress through prior budget submissions, the Service has made significant progress in its continuing program to upgrade and enhance existing security systems at the White House Complex.

The Secret Service is mandated to ensure the public trust in our nation's monetary system by enforcement of laws involving existent and new investigative jurisdictions.

Overall caseload in fraud investigations continued to increase. Computer fraud case receipts rose from 11 in Fiscal Year 1986 to 119 in 1987. During this same time frame, direct deposit and electronic fund transfer caseload rose by 113 percent. A record 2,288 arrests were made for fraud offenses during Fiscal Year 1987, an increase of 14 percent over Fiscal Year 1986. Of that total, 81 percent were for credit card fraud violations. An even greater investigative effort in Fiscal Years 1988 and 1989 will be required to counteract computer crime, access device fraud, sophisticated counterfeit methods, and to protect our nation's electronic funds transfer system. This agency is also responsible for conducting special investigations for the Federal Reserve Bank, the Farm Credit Administration, and the Federal Deposit Insurance Corporation related to Government securities larceny. Last year real losses in these cases totaled $383,000,000.

Fiscal Year 1987 was also a key year for the Service regarding our major accomplishments in the area of information systems. New mainframe computers were successfully installed, and implementation of a Nationwide Communications Network linking Secret Service entities commenced.

Protective Effort

Our foremost goal is to identify and implement the most effective and efficient means of providing a safe and secure environment for those we are charged to protect. In light of government-wide efforts to reduce the budget deficit, we seek this achievement with particular attention to increasing efficiency while striving for utmost effectiveness.

Protective responsibilities in Fiscal Year 1987 were especially demanding. Fiscal Year 1988 thus far exhibits the same trend, since candidate nominee protection commenced earlier than budgeted.

Protective coverage for foreign dignitaries visiting the United Nation's 41st and 42nd General Assemblies was provided. A protective coordinating center was established in New York City, and approximately 80 security details were required for these events. Activities included a visit by the President to address the General Assembly. The President and First Lady traveled to Economic Summits in Venice, Italy and Ottawa, Canada entailing security coordination with foreign governments. The Vice President represented our country at the Pan American Games in Indianapolis.

During Fiscal Year 1988, the Winter Olympics in Calgary, Canada, prompted an increase in visits by foreign heads of state, as will the Commonwealth Conference in Canada.

The Secret Service is providing protection for major Presidential candidates of each party and will furnish protection for candidate nominees and their spouses. These activities will span into Fiscal Year 1989. We will also be involved in substantial planning for the new President and Vice President details, as well as a new Former President detail. Our assessment regarding the known candidates reflects that a new President may bring with him the necessity for 5 to 16 family member details.

Due to the effort and expert performance by our personnel, security personnel from other Federal law enforcement agencies, and State and local governments, Fiscal Year 1987 was an overall success for the Secret Service in accomplishing its protective mandates. The Service will continue to strive to fully secure protectees' facilities and mobile environments.

Permanent Protection

In Fiscal Year 1987, the Secret Service's permanent protectees included President Reagan and Mrs. Reagan, and members of their family; Vice President and Mrs. Bush; former Presidents Carter and Ford and their spouses; and former First Lady Mrs. Johnson. These protectees traveled to 2,917 domestic and 152 foreign cities during 1987. Protectee travel activity during the first quarter of Fiscal Year 1988 already shows a material increase over the first quarter of Fiscal Year 1987. During Fiscal Year 1989, the Service will implement protection for a new President, Vice President and their families at their primary and secondary residences. We will also establish a new Former President's protective division. The former Vice President and his spouse will be afforded protection for a period of time.

Uniformed Division

The U. S. Secret Service Uniformed Division is mandated to protect the Executive Mansion and grounds, the New Executive Office Building, diplomatic missions located in the Washington metropolitan area, and under certain circumstances, foreign missions located outside the metropolitan area of Washington, D.C. Uniformed Division protection is also integrated with that for the President, the Vice President and his residence. Public Law 99-591 authorized the Uniformed Division to assume security of the Main Treasury Building and Treasury Annex as an adjunct to improving and streamlining security of the White House Complex. The completion of East Executive Avenue, which comprises a public walkway between the Main Treasury and the White House, has become an integral part of the Uniformed Division's security responsibilities.

Visitor screening, weapons and canine explosives detection, and counter-sniper functions by our Uniformed Division are an integral part of providing a secure environment for our protectees. Activity in Fiscal Year 1987 was again exceptionally heavy for our Uniformed Division magnetometer details. Screening persons in the vicinity of selected Secret Service protectees continued to be an effective program for uncovering weapons and deterring potentially harmful individuals. The hard work and success of our Magnetometer Support Unit was evidenced by the 1,490,731 individuals processed.

Last fiscal year, the total number of visitors processed at the White House was 1,333,000, an increase of 25 percent. Uniformed Division responsibilities will continue to expand as new magnetometer posts are added to the White House. In addition, a temporary remote delivery site was established as an interim measure to screen White House deliveries. Also, a more thorough vehicle screening program at the

Southwest Gate of the White House commenced. These were major steps in the security enhancement of the White House Complex. Substantial improvements in facilities safeguards at these sites are also planned in Fiscal Year 1989. Likewise, we will continue to seek a permanent remote delivery site.

The Uniformed Division Foreign Missions Branch provided security for 436 foreign missions and embassies in Fiscal Year 1987. The Branch covered 3,111 events, incidents, and potential threats. Essential support to the Service's protective details was provided by the Canine Explosives Detection Program which performed 144,076 searches during Fiscal Year 1987, a 74 percent increase over Fiscal Year 1986.

Protection of Foreign Heads of State or Government

In 1987, the Secret Service established 171 security details for visiting foreign Heads of State and Government, who had an average stay of 5.9 days per visit. Protection of foreign VIP's included these annual events: the United Nations General Assemblies, a Caribbean Conference in Miami, the Pan American Games, and the International Monetary Fund Meeting.

Providing a secure environment for our foreign visitors continues to be one of the Secret Service's highest priorities. This effort requires more protective and planning resources each year. In addition, Fiscal Year 1987 represented the first full year for the Secret Service with the new responsibility of protecting spouses of foreign heads of state in compliance with National Security Decision Directive 207.

As mentioned previously, the visit of Pope John Paul II to the U.S. during September, 1987, was unprecedented in its scope of events.

Details for foreign protectees were provided at the United Nations General Assemblies. Special security considerations were required for leaders from countries such as Lebanon, India, and Iran. The Caribbean Conference in November, 1986, involved coordinating nine details. We also participated in security planning for the commemoration of the 200th Anniversary of the signing of the U. S. Constitution at Philadelphia, Pennsylvania. The Secret Service is committed to a successful protective effort for the April, 1988, Canadian Summit in Washington, D.C.

In 1988, a Commonwealth Conference and a Economic Summit will be held in Canada. The Winter Olympics in Canada and a Summit in Mexico took place during the early part of the year. In the past when major events have been held in a bordering nation, it precipitated a considerable increase in visits to the U. S. by foreign heads of government and their spouses. We are preparing for increased visits in connection with these events in Fiscal Year 1988. Foreign dignitary visits are expected to be on the rise in Fiscal Year 1989, with a new President in office. State visits should continue as in the past with security requirements remaining at least at previous levels.

Candidate/Nominee

Election years are always major tests for the Secret Service's protective forces. In Fiscal Year 1987 we addressed planning, training and procuring communications equipment as vital preliminary steps to the commencement of candidate protection. Extensive specialized Campaign training of Secret Service and other law enforcement personnel was completed. Almost 1,500 of our agents were trained along with 2,300 personnel from other agencies. The 1988 Presidential Campaign is having a major impact on overall protective travel, since we are preparing for a number of candidates who will travel in conjunction with the primaries, caucuses, and party conventions. Thus, the budgetary impact of Campaign 88 will be significant, and we will find it necessary to utilize all means available to effectively manage our resources.

Investigative Effort

Special Agent personnel from the Secret Service's 63 field offices and 55 resident agencies spent a considerable portion of their duty hours supporting protective functions in Fiscal Year 1987. In 1987, fifty two percent (52%) of all Special Agent workhours were devoted to protection, with field office personnel contributing substantially to this effort. Much of this work involved conducting advance surveys for visiting protectees and providing physical protection for incoming permanent and temporary protectee details in their respective districts.

In addition to the heavy reliance upon the Service's investigative personnel for protective reinforcement, substantial hours were spent in protective-related investigations. Cases closed totaled 8,882 in Fiscal Year 1987, with 374 arrests, and 348 convictions. Despite the heavy commitment of investigative manpower to protection, the personnel in our field offices maintained a highly effective level of criminal enforcement during Fiscal Year 1987.

Operational Balance

Since the safety of our protectees must be the highest priority of the Secret Service, our resources are first devoted to protective programs. However, the goal of the Secret Service is to promote a balance between investigative and protective duties, because we have found that investigative skills reinforce a Special Agent's protective skills. Therefore, the Service's expanding investigative jurisdictions have complemented and strengthened our protective capabilities and will continue to be an integral element of our protective strategy in the future.

Overall Investigative Caseload

Overall, the Secret Service's investigative caseload continues to build. Pending investigations, when coupled with case receipts, totaled 304,493 in FY 1987. Estimates of cases to be received in

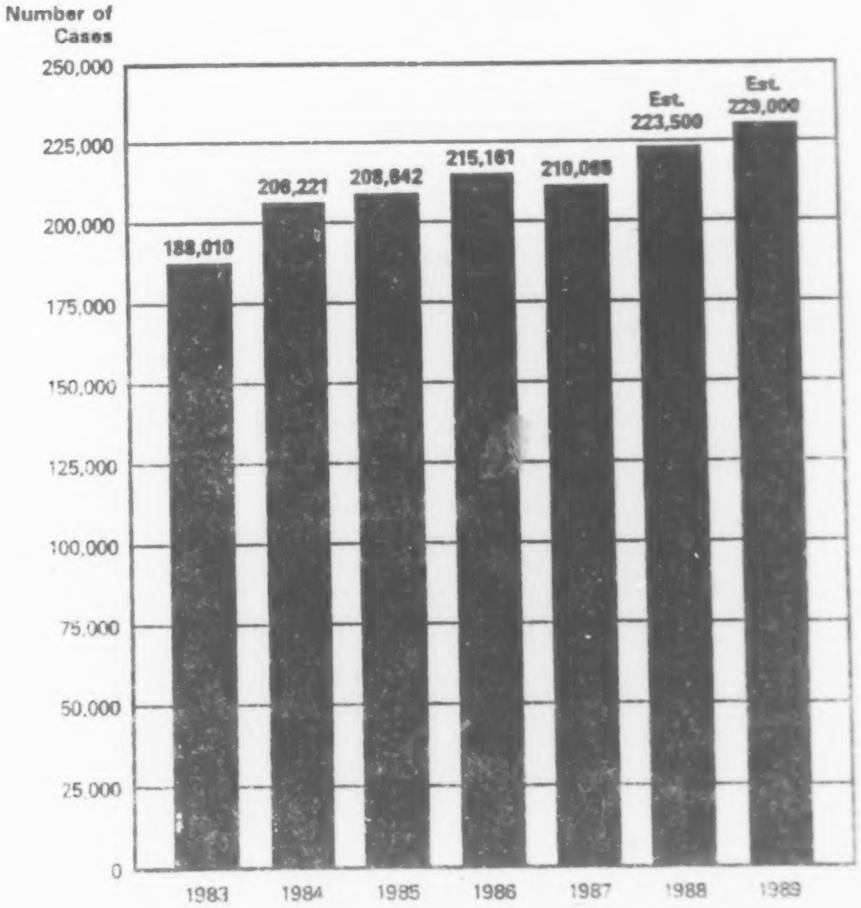
Fiscal Year 1988 exceed our Fiscal Year 1987 statistics by six percent. Chart A shows the total cases received for investigation over the past five years. Overall caseload rose by almost 20 percent during that period. Estimates of the number to be received in Fiscal Years 1988 and 1989 are also reflected on this chart. The Secret Service closed 199,091 investigations or 65 percent of total caseload in Fiscal Year 1987. The financial impact of closed cases and prevented losses was $722.3 million. We expect cases closed to rise by 28 percent in Fiscal Year 1989.

United States Secret Service

Chart A

Total Cases Received for Investigation

Fiscal Years 1983 - 1989



By developing and applying computer techniques and modernized lab facilities to a growing caseload, the Service continues to become more efficient in its investigative role. In Fiscal Years 1988 and 1989, the Service will further enhance forensic procedures to examine, identify, and classify counterfeit and altered credit cards and false identification.

Fraud Jurisdiction

Over recent years, the Secret Service has acquired increased responsibilities involving fraud cases. These highly-complex investigations most often involve "white collar" criminals or organized criminal groups. They require a great deal of manpower, man-hours, technical expertise and equipment. Although new to the field, our investigators and technicians have rapidly gained a reputation both in the law enforcement community and the financial community for effectiveness. These cases include credit/debit cards, long-distance and computer access codes, electronic funds transfers, private credit bureau computers, and "Federal interest" computer systems. One of our most important goals is to remain abreast of emerging technology which affects the nation's payment system and assist in the effort to safeguard this technology from attack by the criminal element.

Computer fraud case receipts rose almost ten-fold in Fiscal Year 1987 when compared with 1986. Case receipts for Direct Deposit fraud were 8,004 in 1986 and 17,085 in 1987, an increase of 113 percent. Credit and debit card fraud cases received by the Service in 1987 increased by 10 percent over Fiscal Year 1986. Over 4,316 cases involving access device fraud were initiated. Actual losses incurred were $59.4 million as compared to $21.3 million in 1986. The Service prevented additional losses of $161.8 million, and 1,844 individuals were arrested in connection with these violations (an increase of 32 percent).

Actual losses for cases developed in Fiscal Year 1987 involving Federal Reserve Banks, Federal Deposit Insurance Corporation, Farm Credit Administration, and government securities larceny, totalled approximately $383 million. We will continue to assist in the development of Joint Federal/State/Local Financial Crime Task Forces throughout the United States. The "pilot" Joint Financial Crime Task Force operating in New York has been extremely successful and has allowed us to optimize the use of our resources in that area.

In Fiscal Years 1988 and 1989, we will continue to advise credit/debit card companies in the development and implementation of anti-counterfeit and anti-fraud security features. Our liaison with the financial industry and other law enforcement officials will continue. We intend to monitor nationwide "computerized bulletin board" systems for violations of credit/debit card and computer crime laws. The Service will also develop a program to detect and enforce violations of Federal law in connection with private credit bureau and "Federal interest" computer systems and civilian electronic funds transfers. We will continue to participate in the Electronic Funds Transfer (EFT) Certification Task Force to develop standards for internal controls for Federal agencies that utilize electronic funds transfers. An important task will be to analyze fraud trends and techniques in order to recommend changes in laws, regulations, and Secret Service policies.

Counterfeiting Activities

The Secret Service was recently entrusted with investigative authority relating to portions of the Money Laundering Control Act of 1986. A Memorandum of Understanding between the Justice and Treasury Departments was signed by the Attorney General and the Secretary of the Treasury on May 20, 1987. The Act provides that it is a crime to launder proceeds from specified unlawful activities. These activities include certain counterfeit violations over which we exercise primary jurisdiction. Reporting violations of the Bank Secrecy Act are also included.

We continue to make substantial progress in suppressing counterfeit activity. In January of this year, our Houston Field Office was successful in seizing $16.6 million in counterfeit Federal Reserve Notes and associated equipment. This seizure represents one of the largest in our history.

In Fiscal Year 1987 domestic counterfeit note passing activity increased by 36 percent, as $9.3 million in counterfeit notes were passed on the public. The value of counterfeit notes seized before being passed to the public totaled $62.3 million, a 61 percent increase over 1986. Thus, of the known $71.6 million in counterfeit notes and coin produced, 87 percent was confiscated prior to being passed on to the public. One hundred and eighty-three counterfeit plants were also suppressed, an increase of 35 percent over 1986.

During Fiscal Year 1987, the Service developed enhanced microcomputer applications to provide up-to-date data on counterfeit note activity in order to improve the tracking of such notes according to geographic and chronological information. We will soon implement the Counterfeit Note Information System to link various entities for dissemination of technical and investigative information. The system will allow us to search and classify new counterfeit notes. In addition, the process of monitoring advancements in printing technology, especially reprographics, is ongoing. The Service will continue to evaluate currency anti-counterfeiting devices to aid the Federal Reserve Bank in improved detection.

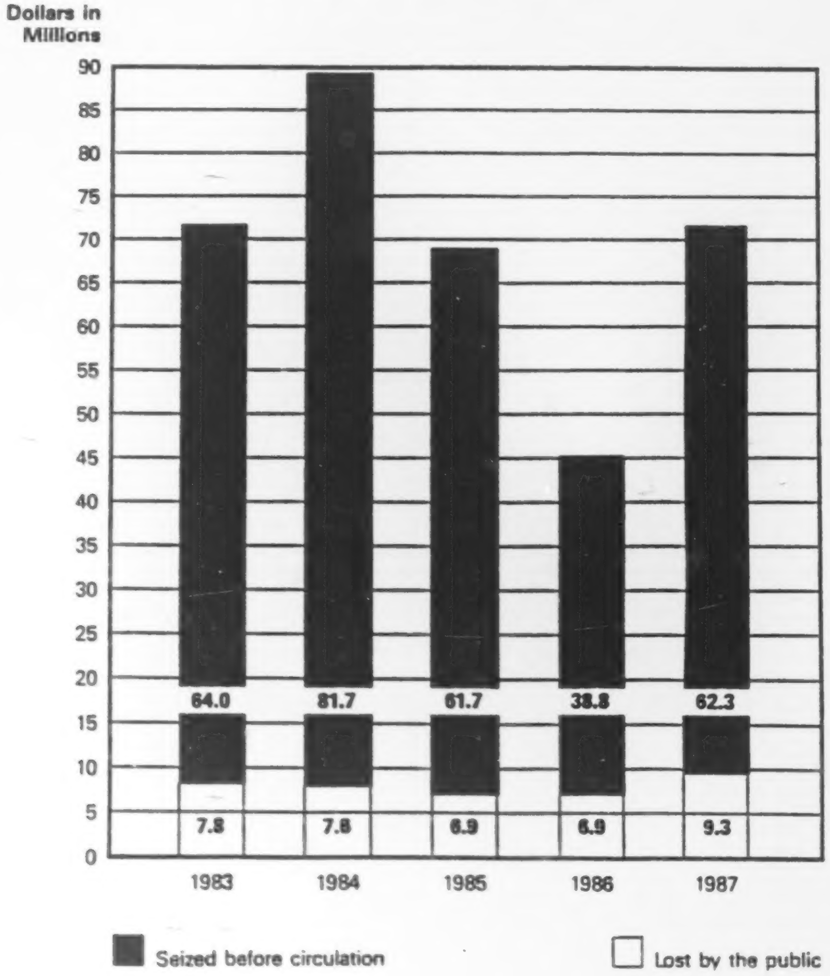
A permanent Secret Service office was recently established in London, England to augment the suppression of international counterfeiting of U. S. dollars. Forty (40%) percent of the counterfeit circulated in the United States last year was produced overseas. Overseas offices provide the Service with a permanent and cost-effective deterrent to the foreign counterfeiting of U. S. currency.

United States Secret Service

Chart B

Counterfeiting Activity

Fiscal Years 1983 - 1987

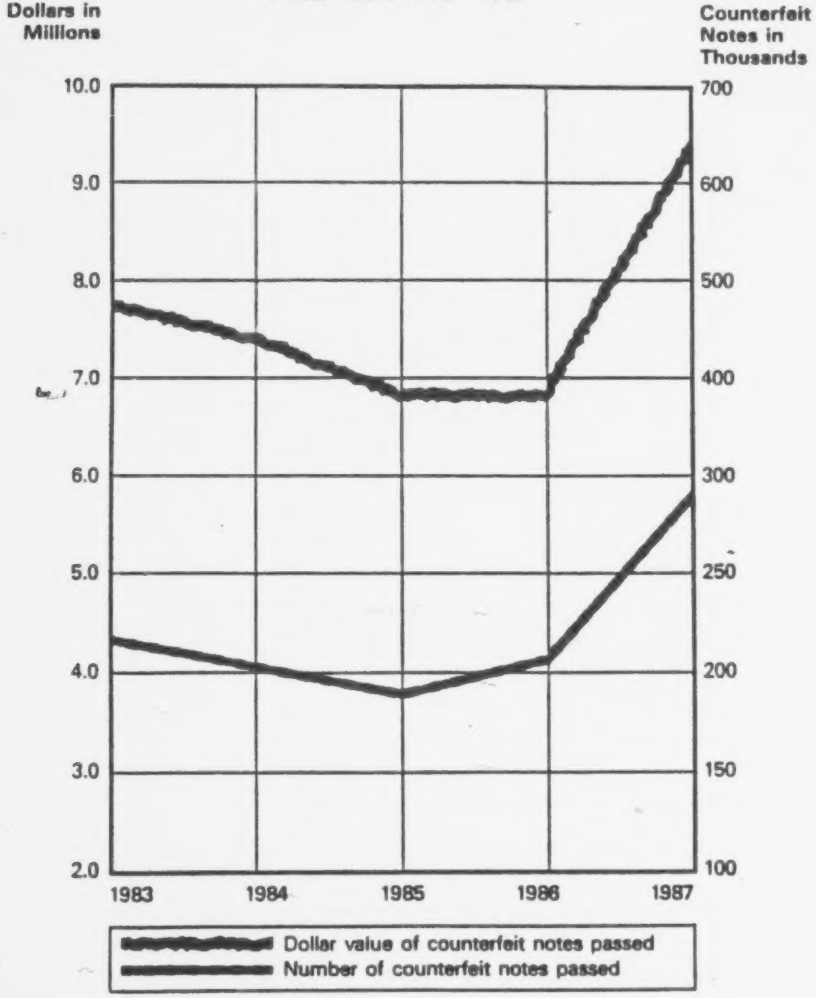


United States Secret Service

Chart C

Counterfeiting Trends

Fiscal Years 1983 - 1987



Charts B and C (Fiscal Years 1983 to 1987) show the dollar value of counterfeit notes seized before circulation, the overall losses to the public, and the number and dollar value of counterfeit notes passed.

Forgery

Check and bond forgery crimes remain a major investigative area for enforcement. Cases received for investigation during Fiscal Year 1987 totaled 120,906. The financial impact of those that were closed was $55.8 million. An over-riding goal of the Forgery Division is to streamline administrative procedures relative to check forgery cases, and to further enhance indexing procedures. This will include installation of a direct computer link between the Secret Service and the Social Security Administration to confirm dates of death as reported in deceased payee case referrals.

Check Forgery

Check forgery cases received in Fiscal Year 1987 represented a slight decrease of 2 percent when compared with the number received during Fiscal Year 1986 (Chart D). Cases closed exceeded the 100,000 mark for the second consecutive year. A total of 109,026 check forgery investigations were closed, resulting in a solved rate of 89 percent and 3,638 arrests.

Bond Forgery

Investigations of bond forgery cases decreased from 5,034 in Fiscal Year 1986 to 4,261 in Fiscal Year 1987. The number of closed cases was 4,884 with a total value of $587,474.

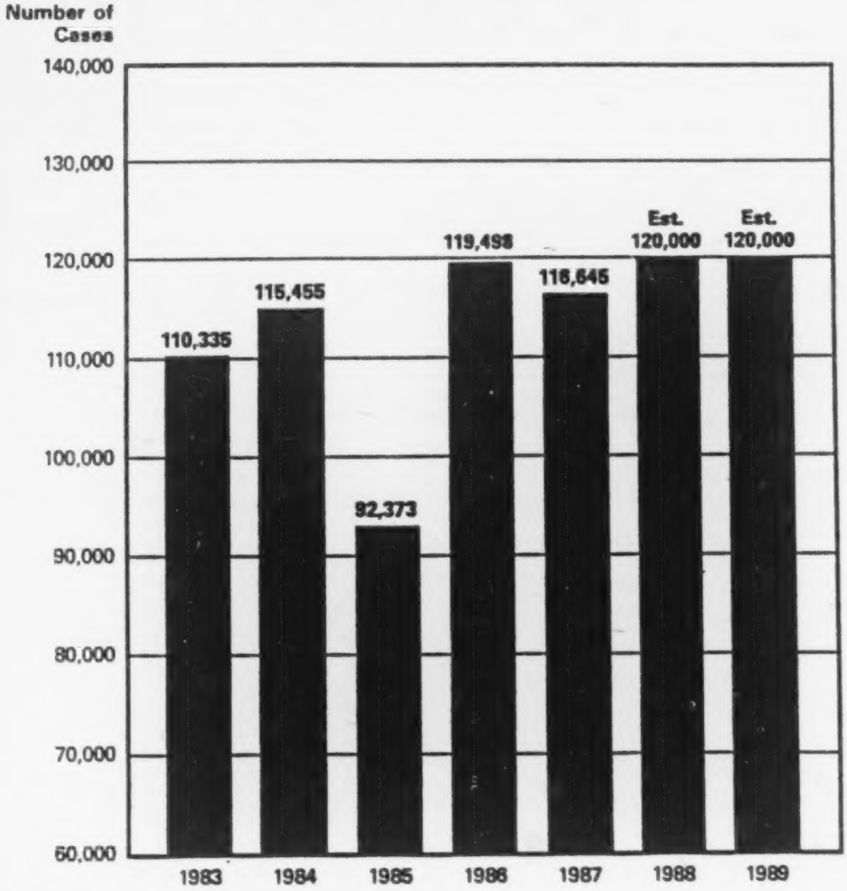
Chart E details bond forgery cases received for investigation from Fiscal Years 1983 through 1987, with estimates for Fiscal Years 1988 and 1989.

United States Secret Service

Chart D

Number of Forged Check Cases Received for Investigation

Fiscal Years 1983 - 1989

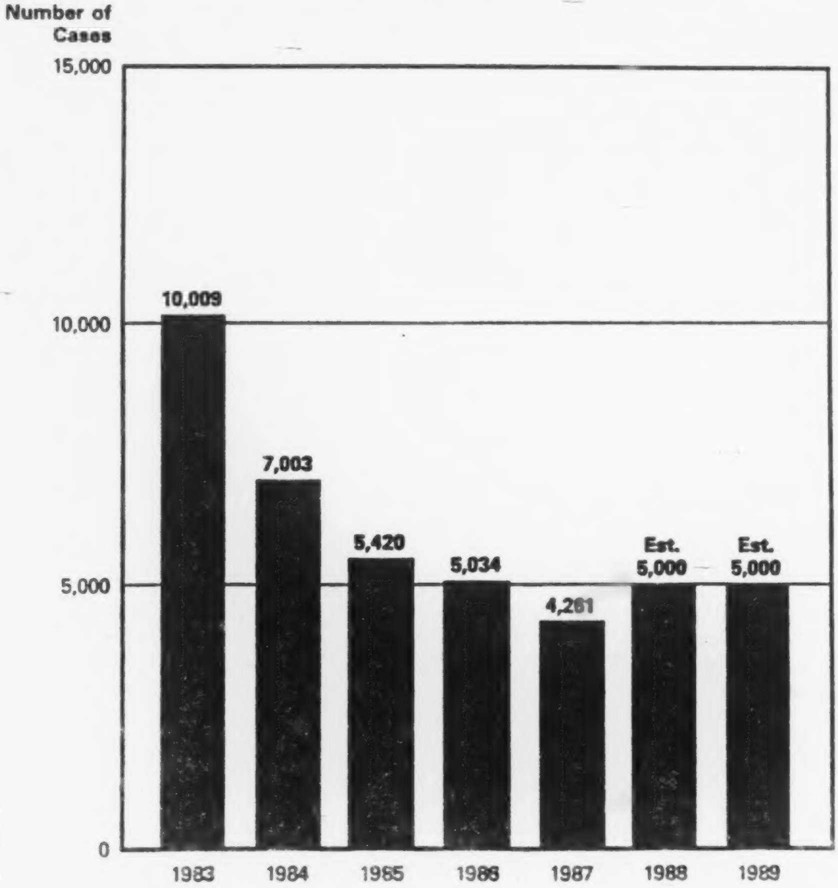


United States Secret Service

Chart E

Number of Forged Bond Cases Received for Investigation

Fiscal Years 1983 - 1989



Organized Crime

The Secret Service continues to participate in the Organized Crime Strike Force Program of the Department of Justice and is an active member of the National Organized Crime Planning Council, which consists of members of Federal law enforcement agencies. The Council visits the various strike forces throughout the country and gathers information concerning organized crime activities. At present, the

Secret Service has designated 14 Organized Crime Strike Force representatives in our field offices who coordinate their efforts with the national representative assigned to headquarters.

Protective Research

Technical Security Systems

During Fiscal Year 1987, significant milestones were achieved which centered around the enhancement of facilities security. Enhancement of White House Complex security and access controls continued. Construction of East Executive Avenue was completed to improve security of the Eastern side of the White House. This included installation of crash resistant gates, fencing and police booths at the north and south entrances to East Executive Avenue.

A temporary vehicle inspection area was configured, allowing us to perform better vehicle searches prior to allowing entrance to the White House Complex. The Service developed an advanced composite vehicle armor system which improves the protection levels and is a lighter armor than provided by previous vehicles. The fabrication of a new Presidential limousine is underway with completion expected in Fiscal Year 1988.

Technical security enhancements to former Presidents' residences and residences of the new President and Vice President will take place in Fiscal Years 1988 and 1989. Perimeter intrusion detection systems must be installed at the residence of the new former President, and at any personally owned properties of the new President and Vice President. Security enhancement planning and implementation oversight in connection with Blair House renovations will occur so that it may reopen in Fiscal Year 1988. We plan to implement and test a new White House computer-based Access Control System. The concrete barriers on Pennsylvania Avenue will be replaced with permanent, aesthetic, crash resistant bollards. Improvements to field support equipment will include upgraded personal body armor.

Information Systems

Since the beginning of this decade, the Secret Service has been involved in planning and implementing an organization-wide ADP modernization program. The program includes: creating centrally supported databases; upgrading mission-support computer applications for front-line users; replacement of our mainframe computer system along with splitting mainframe locations between headquarters and an alternate site; acquisition of standard multi-purpose computer workstations; and implementation of a nationwide network to interconnect all Secret Service locations electronically.

In Fiscal Year 1987, the Nationwide Communications Network became operational. All Network functions were brought on-line and are now running at test sites as well as at several Headquarters locations. We will commence with Network expansion in Fiscal Year 1988 once testing is completed, and interface the Network to the new mainframes once software application programs have been converted. Network implementation will be completed in 1989.

A major effort went into planning communications support for Campaign 88, resulting in a detailed Operations Plan. This support, which constitutes a top priority in 1988, will include Network capabilities, and radio and telephone support for all Coordinating Centers, details, and sites. Implementation of a Voice Privacy system at the convention sites is a goal for Fiscal Year 1988. Following the conventions and into Fiscal Year 1989, Voice Privacy systems will be expanded to selected field office locations and used at multiple protectee trip sites. Creation of a capability to interface our domestic network and overseas field office locations and trip sites remains a goal for Fiscal Year 1989.

Procurement and installation of the first replacement mainframe computer system was completed at a temporary alternate site, and the conversion and modernization of the existing application programs was begun and will continue into Fiscal Year 1988. Site preparation at

Headquarters and installation of a second mainframe was also completed in Fiscal Year 1987.

By Fiscal Year 1989, the integration of the Communications Network and new mainframes will be in operation. The Service can then extend more data processing capabilities to end users in the field offices and Headquarters divisions. We can improve performance and productivity by utilizing modern information systems technology.

Our Information Systems Development Division continued to incrementally establish the Master Central Index (MCI) in numerous field offices and Resident Agencies during Fiscal Year 1987. The MCI is an application designed to maintain a computerized investigative data base and to disseminate such information among all Secret Service entities. In Fiscal Year 1988, we will implement the MCI within all of the remaining field offices and resident agencies.

Intelligence Data

During Fiscal Year 1987, the Service furthered its analytical capabilities in regard to terrorist activity. We will continue to identify the needs of the Service in the areas of behavioral and social science research and to develop those areas which will enhance our protective functions. The concept of a Crisis Management Team was tested during the Papal visit and proved to be an efficient operation for handling a large caseload resulting from a specific event. Future activities include modernization and implementation of our information processing techniques to handle current as well as projected requirements. A countermeasures upgrade will evolve in the form of implementation of a comprehensive information security program for the White House Complex.

Training

The Office of Training experienced an extremely busy Fiscal Year 1987 due to specialized training requirements for Campaign 88. Detail supervisors, advance agents, and operations staff for 18 candidate details were trained. A total of 1,473 Special Agents received training in all phases of Secret Service responsibilities, including Master Central Index training, protective research briefings, and protective detail training. Protective Operations Briefings provided over 2,200 Federal, state, and local law enforcement officers with orientations relative to Secret Service protective procedures. Also, creation of the Computer Training Branch has brought a focus to the concept of computer based training. This type of training is imperative so that managers and operations staff may keep pace with the Service's acquisition of technologically advanced equipment. Next fiscal year, a new computer fraud training course will be developed. This course, covering computer fraud violations, will enable us to better enforce our newly acquired fraud jurisdictions.

In Fiscal Year 1987, specialized instruction by the Uniformed Forces and Firearms Training Division included Canine and specialized protective support units, protective operations driving, motorcycle classes, and firearms instruction.

Development of the James J. Rowley Training Center is an ongoing priority for the Secret Service with eventual completion of the revised Master Plan being our ultimate goal. Construction of the Security and Computer Building, Protective Driver Training Course, simulated Airport Apron, and a Water Tower began in the Fall of 1987. They are scheduled for completion in late 1988. Construction of the Tactical Response Training area and the Observation Tower will commence in mid 1988 with completion expected in 1990.

During Fiscal Year 1988, the Service will proceed with the next segment of the Training Center construction program. The design phases for a Perimeter Road Network and Physical Training Building are nearing completion. They constitute construction necessary to complete the revised Master Plan. Funds made available by Congress in Fiscal Year 1988 will be applied to this phase of development.

Equal Employment Opportunity

As you know, the Service has a special need for minorities in the ranks of our special agents and uniformed officers. Accordingly, we are conducting significant recruitment efforts for these categories of personnel so that we can compete with private industry for qualified minorities. We processed almost 1,000 applications from these groups in Fiscal Year 1987. A record number of minority applicants were hired as Special Agents in Fiscal Year 1986, and this trend continued in Fiscal Year 1987.

Our efforts were intensified during Fiscal Year 1987 to recruit and hire minority applicants. A commitment was made to establish a coordinated and effective approach toward satisfying that need. Recruitment activity and responsibility is shared among three Secret Service management levels beginning with each field office. Regional coordinators develop strategies to enhance the program, and a Headquarters position was created to monitor and evaluate our minority recruitment efforts. Current recruiting methods and strategies have been modified, retained, or excluded as appropriate. It is the Service's intention to accelerate minority hiring while the specifics of the program are being implemented.

It is our expectation that the Uniformed Division will continue its posture of excellence and professionalism in pursuit of the fulfillment of our protective mandate. Therefore, a high priority is placed on upgrading and increasing the staffing in this Division. During Fiscal Years 1988 and 1989, we intend to solicit Uniformed Division applicants in the eastern half of the United States, via public service announcements and contacts with institutions of higher learning that offer degrees in Criminal Justice. Our ultimate goal is to increase Uniformed Division hires by 25 percent over Fiscal Year 1987.

Freedom of Information and Privacy Acts

During Fiscal Year 1987, the Service processed 571 Freedom of Information requests and 72 Privacy Act requests. Additionally, our Chief Counsel processed 63 FOI administrative appeals and actively assisted in the litigation of 9 judicial appeals. In Fiscal Year 1987, direct expenses associated with processing FOI and Privacy Act requests amounted to $286,892, a 15 percent increase over last year. Of this amount, the fee recovered through FOI billings was $932 or about one third of one percent of expenses.

Summary

In summary, Mr. Chairman, Fiscal Year 1987 was a successful and demanding year for the Secret Service with added protective planning responsibilities due to Campaign 88 and an increase in workload in new investigative jurisdictions. Our greatest concerns were keeping pace with a host of major protective events precipitated by the visits of prominent world leaders including Pope John Paul II; implementing plans for the 1988 Presidential Campaign; enhancing technical support upgrades for our protectees' facilities and mobile environments; effecting advanced information systems technology; and ensuring that our personnel received the highest caliber of training to meet the challenges that face us. The safety of our protectees is always the Service's first priority, and it requires an increasingly higher level of diligence. As a result, an enormous manpower effort was expended in protective activities during Fiscal Year 1987, and our technical capabilities and investigative effectiveness continued to reach new levels of sophistication.

I am always grateful for the Committee's understanding and support of the Secret Service. Fiscal Year 1987 was one of historic events and successful implementation by our various entities. Notable praise is appropriate for the diligent efforts of our employees whose dedication, hard work and professionalism have brought considerable credit and accolades to the Secret Service. This same intense, dedicated effort from our agency will continue in the future.

Mr. Chairman, this concludes my statement. I will be pleased to answer any questions you or the other members of the Committee may have.

SUMMARY STATEMENT

Senator DeConcini. We will begin this morning with Mr. Simpson, although I understand Mr. Keating is with us.

We are very pleased to have you, Mr. Assistant Secretary, join us, so we will start with you and then Mr. Simpson. Then, we will move on.

Mr. Keating. Thank you, Mr. Chairman.

Mr. Chairman, on behalf of the Treasury Department, it is my pleasure to be here with the committee to present Mr. Simpson and the budget request for fiscal year 1989 on behalf of the U.S. Secret Service.

With me is Mr. Ed Verberg, with the Office of Finance of the Department, to answer along with me any specific questions the committee might have.

I have a formal statement, Mr. Chairman. I would ask that it not be read but be made a part of the record.

I would like to mention very briefly, because of your interest in narcotics enforcement along the Southwest border, that as we speak the U.S. Secret Service is a member of Operation Alliance, the joint command group. The Secret Service is now a member of the enforcement group of the Drug Policy Board, and the Secret Service now has a presence in El Paso.

So, as a result of the new initiatives, which the Congress expects to be taken and are, in fact, being taken as a result of the 1986 act, the Secret Service is a signatory to the memorandum of understanding on the money laundering statute, and is actively engaged in investigations of criminal violations which do impact very directly and positively on our effort to stem the flow of drugs across the border and into the United States.

With that, Mr. Chairman, it is my pleasure to introduce to you the Director of the Secret Service, Mr. Simpson.

DRUG BILL

Senator DeConcini. Would it be better that I refer questions as to what the Secret Service does in Operation Alliance to Mr. Simpson or to you, Mr. Keating?

Mr. Keating. I would be happy to take them, and if there is a postscript that he wishes to add I would be happy to ask the Director to do that.

Senator DeConcini. Before I go to Mr. Simpson, I can't resist this opportunity—having introduced a major piece of drug legislation with Senator D'Amato, and now having 57 cosponsors on it as of today—to ask you about our ~~plan~~.

No. 1, have you had a chance at all to even skim the legislation, S. 2205, and also I would like to ask you, if you have had a chance to do it, about the plan that recognizes the management of the interdiction agency under a new secretary for enforcement and border affairs.

He or she would report directly to the Secretary of the Treasury and both Customs and the Coast Guard would be under his or her control. Two assistant secretaries would be reporting to the Under Secretary.

Do you have any ~~reactions~~ to this reworking of the management structure at the Treasury in view of the recommendation of the Coast Guard to go back into the Treasury Department?

Mr. Keating. Mr. Chairman, I reviewed your press release. I have not had an opportunity to review the legislation. I mentioned to Mr. Mills that what I would like to do is get a copy of the legislation, review it thoroughly, and then respond back.

The Department has not yet taken a position on the merits of the Coast Guard and Customs under the Secretary.

Senator DeConcini. What is your view of an Under Secretary being in charge of just the interdiction for all law enforcement agencies?

Mr. Keating. Mr. Chairman, to have line authority for interdiction agencies is, in principle, a solid principle, so that we would be in a position to reduce the level of turf disputes, which are disputes that have, unfortunately, plagued our efforts.

I think we have gone a long way toward reducing those turf disputes under the structure of the Drug Policy Board, but in principle it sounds like a great idea, but I will have to talk to the Secretary to determine his specific views as to the merits of the principle.

Senator DeConcini. Do you have any idea, Mr. Keating, of how long it would take to give us a view of that subject matter as well as the bill itself?

Mr. Keating. Mr. Chairman, I asked yesterday to get a copy of the bill. I understand that it was attained yesterday afternoon, and we are reviewing it now, so I would hope by the end of next week we would have word back to you.

Senator DeConcini. Thank you. I appreciate you expediting that for our own benefit. We realize that we may have to make some changes in it, but we would certainly like to have your views.

Thank you, Mr. Simpson, for waiting patiently while we have delved into some other matters. Please proceed.

STATEMENT OF JOHN R. SIMPSON

Mr. Simpson. Thank you, Mr. Chairman.

I have a long statement which I would like to submit for the record, with your permission, and I have a short one that I would like to read.

Senator DECONCINI. I guess we will let you do the short one this morning.

Mr. SIMPSON. Thank you, sir.

APPROPRIATION REQUEST

The pending appropriation request for fiscal year 1989 totals $352 million, a decrease of $15 million when compared with the enacted level for fiscal year 1988. This decrease is primarily a result of nonrecurring Presidential campaign activities.

PROTECTIVE ACTIVITIES

Fiscal year 1987 was one of historic events and great strides forward for the Secret Service. Our most noteworthy responsibility was to provide protection for Pope John Paul II while working within a very limited timeframe.

His visit to the United States was the single most demanding protective event in our history. It was comprised of 114 major events in 11 days, covering nine cities. There were 12 outdoor masses, the largest one attended by almost 1 million people.

The magnitude of the events surrounding his stay required monumental security arrangements, as did General Secretary Gorbachev's visit in December for the arms summit meeting.

Extensive security preparations spanning fiscal years 1987 and 1988 were required. We finalized protective planning for the 1988 Presidential campaign and provided a secure environment for our permanent protectees and foreign dignitaries visiting the United Nations' 41st and 42nd General Assemblies.

This year the Secret Service will protect major Presidential candidates and their spouses. In fiscal year 1989, we will implement protection for a new President, Vice President and their families, and establish a new former President's protective division.

UNIFORMED DIVISION

The completion of East Executive Avenue, which comprises a public walkway between the main Treasury and the White House, became an additional part of the Uniformed Division's security responsibilities in fiscal year 1987.

Activity again was exceptionally heavy for our Uniformed Division magnetometer details involved in weapons protection. Almost 1.5 million individuals were processed. A remote delivery site was established as an interim measure to screen White House deliveries. A better vehicle screening program at the southwest gate of the White House commenced. Substantial improvements in facilities safeguards at the White House complex are also planned in fiscal year 1989.

PROTECTION OF FOREIGN HEADS OF STATE OR GOVERNMENT

Foreign dignitary visits are expected to be on the rise in fiscal year 1989, with a new President in office.

CANDIDATE PROTECTION

In fiscal year 1987 we addressed planning, specialized training, and procuring of communications equipment as vital preliminary steps to the commencement of candidate protection.

INVESTIGATIVE ACTIVITIES

The Secret Service is mandated to ensure the public trust in our Nation's monetary system by enforcement of existing and new investigative jurisdictions. Overall investigative caseload, in this area, rose by almost 20 percent over the past 5 years. The Secret Service closed 65 percent of its total caseload in fiscal year 1987. The financial impact of closed cases and prevented losses was $722.3 million. We expect cases closed to rise by 28 percent in fiscal year 1989 over fiscal year 1988.

In January of this year, our Houston field office was successful in seizing $16.6 million in counterfeit Federal reserve notes and associated equipment. This seizure represents one of the largest in our history.

Case receipts for direct deposit fraud increased by 113 percent in fiscal year 1987. Computer fraud case receipts rose almost tenfold in fiscal year 1987 when compared with 1986. Over 4,316 cases involving access device fraud were initiated. Actual losses incurred as a result of access device fraud were $59.4 million as compared to $21.3 million in 1986. The Service prevented additional losses of $161.8 million. In fiscal years 1988 and 1989, we will continue to advise credit/debit card companies in the development and implementation of anticounterfeit and antifraud security features.

TECHNICAL SECURITY IMPROVEMENTS

During fiscal year 1987, significant milestones were achieved which centered around the enhancement of facilities security. Enhancement of White House complex security and access controls continued. Construction of East Executive Avenue was completed to improve security of the eastern side of the White House. Technical security enhancements to former Presidents' residences and residences of the new President and Vice President will take place in fiscal years 1988 and 1989.

INFORMATION SYSTEMS

Since the beginning of this decade, the Secret Service has been involved in planning and implementing an organizationwide ADP modernization program. The nationwide communications network became operational last year. By fiscal year 1989, the integration of the communications network and new mainframes will be in operation.

A major effort went into planning communications support for campaign 1988, resulting in a detailed operations plan. Following the conventions and into fiscal year 1989, voice privacy systems will be expanded to selected field office locations and used at multiple protectee trip sites. The Secret Service will continue to improve performance and productivity by utilizing modern information systems technology.

INTELLIGENCE DATA

We will continue to identify the needs of the Service in the areas of behavioral and social science research and further our analytical capabilities in regard to terrorist activity. Future activites include modernization and implementation of our information processing techniques.

TRAINING

The Office of Training experienced an extremely busy fiscal year 1987 due to specialized training requirements for campaign 1988.

Development of the James J. Rowley Training Center is an ongoing priority for the Secret Service with eventual completion of the revised master plan being our ultimate goal. The design phases for a perimeter road network and a physical training building are underway. Funds available in fiscal year 1988 will be applied to this phase of development.

EQUAL EMPLOYMENT OPPORTUNITY

Our efforts were intensified during fiscal year 1987 to recruit and hire minority applicants. A commitment was made to establish a coordinated and effective approach toward satisfying that need. A high priority is also placed on upgrading and increasing the staffing in our Uniformed Division to authorized levels. A record number of minority applicants were hired as special agents in fiscal year 1986, and this trend continued in fiscal year 1987.

SUMMARY

In summary, Mr. Chairman, fiscal year 1987 was a successful and demanding year for the Secret Service. Our greatest concerns were keeping pace with a host of major protective events precipitated by the visits of prominent world leaders including Pope John Paul II; implementing plans for the 1988 Presidential campaign; enhancing technical support upgrades for our protectees' facilities and mobile environments; effecting advanced information systems technology; and ensuring that our personnel received the highest caliber of training to meet the challenges that face us. The safety of our protectees is always the Service's first priority, and it requires an increasingly higher level of diligence.

I am always grateful for the committee's understanding and support of the Secret Service. Fiscal year 1987 was one of historical events and successful implementation by our various entities. Notable praise is appropriate for the diligent efforts of our employees whose dedication, hard work, and professionalism have brought considerable credit and accolades to the Secret Service. This same intense dedicated effort from our agency will continue in the future.

We were greatly aided in accomplishing our protective mission by personnel from other Federal law enforcement agencies, and State and local governments. I would like to commend these men and women for their continued and outstanding support.

Mr. Chairman, this concludes my statement. I will be more than pleased to answer any questions you or the other members of the committee may have.

Senator DECONCINI. Mr. Simpson, thank you, and let me just echo the accolades you paid to the fine employees in your organization. I also feel as you do. You are obviously much closer to them, but I think they do a superlative job.

I yield to the Senator from New York for any statement he may have.

PREPARED STATEMENTS OF SENATOR D'AMATO

Senator D'AMATO. Thank you, Mr. Chairman.

I would ask permission that I might be permitted to submit my statements as if read in its entirety.

Senator DECONCINI. Without objection.

[The statements follow:]

STATEMENTS OF SENATOR ALFONSE D'AMATO

Thank you, Mr. Chairman. I would like to welcome the Directors of the National Archives and Records Administration, the Administrative Conference of the United States, and the U.S. Secret Service. These are all important agencies and I am pleased that we are addressing them in today's hearing.

Today we are reviewing the fiscal year 1989 budget proposal for the U.S. Secret Service. The Secret Service has the important functions of protecting the President and other officials, and investigating the counterfeiting of currency and check forgeries. Over the course of many years, the Secret Service has carried out its mission in the most admirable and effective manner.

For fiscal year 1989, the President's budget proposal requests $352 million. This is a $15 million decrease from the $367 million level appropriated for fiscal year 1988. While much of this decrease is a result of funding reductions due to the conclusion of Presidential campaign activities later this year, we need to guarantee that the Secret Service has all the resources it needs to meet its many responsibilities.

While the President's budget proposal also calls for the addition of 117 permanent positions, we need to find out why 176 positions funded last year were unfilled at the end of 1987. I look forward to working with you Mr. Chairman, and other members of this subcommittee, to ensure that the Secret Service maintains the level of service required by a key law enforcement agency.

Mr. Chairman, I would like to welcome our witnesses this morning from the Administrative Conference of the United States, and in particular my very good friend its distinguished Chairman Marshall Breger. In this as in the other capacities in which he has served in this administration, he has done an outstanding job and I commend him.

The Administrative Conference is a unique institution: an official Governmnent think tank dedicated to solving problems in the administration of our Federal Government. It is our very own executive branch management consultant constantly seeking to improve the fairness and efficiency of Government agencies. In its mix of public and private personnel and resources, in fact, the conferences own structure and procedure embodies one of its primary recommendations: the effective use of private resources and talent for public purposes, to get the biggest expertise bang for every taxpayers buck.

Mr. Chairman the record suggests that the money we have appropriated in the past has been money well spent. That money or the amount of that money has been modest, relative to the long-term benefits that the Conference's work holds the promise of achieving. In fact, the fiscal 1989 request represents a flat continuation of the fiscal 1988 appropriation of $1.865 million. As this amount contains no increase for inflation, the Conference is actually proposing, in effect, to do more with relatively less. I wish all Federal appropriations were as well and widely spent as this seed money in the effectiveness of our governmental agencies.

Among the many tangible benefits provided by the Conference for this appropriation have been its various symposia on numerous topics of interest; its publications, which serve as a ready reference on agency practice for all who deal with the Federal Government; and its ongoing consulting services to all branches of Government. The Conference has made important recommendations in the areas of protection of whistleblowers, better administration of Government contracts, more effective enforcement by OSHA, and other continually timely topics, Of particular benefit to this Senator, and I think to many of my colleagues on the panel was the conference hosted by the Administrative Conference last November for congressional staff members to discuss the interaction of congressional and agency operations. I know that members of my own staff attended this event, the first of its kind, and benefited greatly.

In conclusion, I would like to commend the Conference for its work and warn that it has only generated for itself a legacy of heightened expections. I look forward to the testimony of our witnesses here today.

PANAMANIAN EMBASSY PROTECTION

Senator D'AMATO. Mr. Chairman, I would like to take this opportunity, because I have another hearing to attend, to publicly thank the Secret Service for their immediate response to a request that we made on March 3 as it related to protection for the Panamanian Embassy.

We had received some reports that General Noriega was attempting to send one of his own people to take that Embassy over. We called the Service and want to commend them, again, for their prompt response in seeing that the confrontation that might have taken place did not, and I express to you our appreciation and that of the Panamanian Ambassador.

Thank you, Mr. Chairman.

Senator DECONCINI. Thank you, Senator.

SPECIAL PAY RATES

Mr. Simpson, as you know, the subcommittee paved the way last year to allow the Office of Personnel Management to grant pay raises to your Uniformed Division and other agencies if the case could be made for the increases.

As I understand the situation, the Secret Service requested a pay raise that was 12 percent for the entrance level slots, declining to a 4-percent hike for the upper grades. The Treasury approved this request and asked OPM for the raise, which was granted.

Subsequent to the request of the pay raise, a revised pay raise request was made by Secret Service for a 13-percent across-the-board raise. This revised request never made it to OPM according to OPM. This revised request was turned down by OPM according to certain sources at the Treasury.

Nevertheless, I understand that the Uniformed Division is not happy with their pay raise. Can you give us the chronology of events as it relates to this, maybe some of my information is incorrect?

Mr. SIMPSON. I can give you the chronology, to the best of my knowledge. In March 1987, when it was quite obvious that there was a pay differential between the Uniformed Division and all of the surrounding police departments in the area, we initiated a pay raise of 12, 8, 6, and 4 percent, depending upon your rank.

Subsequent to that, no action was taken although the request was favorably received at Treasury; and they did all that they could to move it. We had, as you well know, to bring it forth in the continuing resolution both on the Senate and the House side.

I know Mr. Roybal, yourself, and Senator Mikulski, and others were very influential in making sure that something was done and ordered OPM to look into the matter.

To make a long story short, it was quite obvious to us and I will take the responsibility, that the 8, 6, and 4 percent portion of it was not what should have been done initially. What we were trying to do and which we did in haste, was to initiate a pay bill so that we could compensate our employees.

We discovered, much to our chagrin, that the other departments were asking to raise not only entry level, patrolmen, and private level pay, but also sergeant, lieutenant, captain, and above pay levels. We conferred with the Park Police over a period of several weeks and came to agreement on a request for a 13-percent across-the-board raise. We felt this would be more fair and objective in comparison with other departments' pay rates and what our Uniformed Division and the Park Police were being paid.

We submitted this as an amendment to the 12, 8, 6, and 4 percent proposal. Again, it was favorably received at Treasury; and they supported it fully and transmitted it to OMB and OPM. I can't tell you what happened at OPM, and why it came back as 12, 8, 6, and 4. I can only tell you that we tried as best we could, as did Treasury, to have the 13 percent reviewed and applied to the Uniformed Division

SPECIAL PAY RATES

Senator DECONCINI. Do you think, because you had to do it twice, that hurt you with OPM or do you have any indication?

Mr. SIMPSON. I wouldn't be the least bit surprised if that might have been the case. Again, I will accept some of that responsibility. In the haste of trying to forward a proposal, we don't always, as you probably know better than any of us, do everything that is necessary.

Senator DECONCINI. Now pending is the 13 percent across the board?

Mr. SIMPSON. That is up to OPM. We don't have any control over it. We would like to see the 13 percent, yes.

Senator DECONCINI. Do you know if OPM is considering the 13 percent across the board?

Mr. SIMPSON. I can't answer that, Senator. I don't know.

Senator DECONCINI. We will ask OPM.

JAMES J. ROWLEY TRAINING CENTER

If the Senator from Maryland wants to make an opening statement, I would be more than happy to yield to her.

Senator MIKULSKI. Thank you, Mr. Chairman, but not really.

I know that we are trying to move expeditiously here today and we are interested in what the Secret Service has and the resources they need to do their mission, and the same with the National Archives.

An area of focus that I would hope to make is on the space needs of the Secret Service as well as their pay raise and the National Archives II facility.

The Secret Service has a very demanding job, as you know, from a Pope to a President, so we are very much interested in helping them have the resources they need.

Senator DECONCINI. And everything in between.

Mr. Simpson, last year you testified that it would cost $6.5 million to complete the Rowley Training Center project in Beltsville, MD. Your budget request of $2 million for the center indicates that your estimate to complete the project is now $7 million. OMB has obviously forced you to pay for this $2 million out of your overall budget.

Why has the cost of this project increased so much in the last year?

Mr. SIMPSON. Senator, as you know, before the conference the committee meetings to reach a conclusion at the budget summit, we had in the budget $6.5 million. This amount was reduced by $1.5 million. We were also cut $215,000 by the Gramm-Rudman-Hollings amendment. Then, there were some additional costs, because we are using 8(a) contractors, along with escalating construction costs in the Washington area which result in a total shortfall of approximately $2.5 million. That is why we would need the $2.5 million to finish the project.

Senator DECONCINI. Thank you.

1988 PRESIDENTIAL CAMPAIGN

Mr. Simpson, you are requesting $7,126,000 in fiscal year 1989 to cover the final cost of the 1988 Presidential campaign. Last year you estimated it would cost $29.9 million to provide protective services for the campaign.

I did not see any indication in last year's hearing record that you anticipated a fiscal year 1989 cost for the 1988 campaign. Frankly, once the election is held in November, what is the justification for this $7 million for candidate protection beginning October 1?

Mr. SIMPSON. The $7,126,000 is to cover protective costs from October 1 through the Inauguration period. It has to do with the President-elect and the Vice President-elect and their spouses and families, which we have to protect by law. This amount also includes the campaigning that will be done by the nominees of the parties from October 1 through November 8.

I think it is almost $3 million for the Inauguration events and those items that would occur prior to the January Inauguration.

CANDIDATE NOMINEE PROTECTION

Senator DECONCINI. How many candidates now have protection?

Mr. SIMPSON. We have five right now, four Democratics and one Republican. Of course, we always have the Vice President.

We are protecting Reverend Robertson on the Republican side, and Senators Simon and Gore, Congressman Gephardt, and Mr. Jackson on the Democratic side.

Senator DECONCINI. You don't have Mr. Dukakis?

Mr. SIMPSON. No, sir; not at this point.

Senator DECONCINI. What does a candidate like Dukakis or Dole do, do they hire special service people?

Mr. SIMPSON. I can't answer.

Senator DECONCINI. Do they consult with you at all?

Mr. SIMPSON. We have heard from both Senator Dole and his staff and from Governor Dukakis' staff. We responded through the Treasury and to both of them that they were qualified with matching funds. They were considered to be major candidates, and if they chose, they could ask for Secret Service protection and I am sure the Secretary would afford it.

Senator DECONCINI. Mr. Keating, what is the procedure? Do they have to request to the President or to the Secretary?

Mr. KEATING. Mr. Chairman, there is an advisory committee which consists of the majority and minority leaders of the Senate and the speaker and the minority leader of the House, and retired Justice Powell, of the Supreme Court as the fifth member. It is chaired by the Secretary of the Treasury. I act as the recording secretary.

When the guidelines which that advisory committee drafts and implements are met, then it is up to me to contact the candidates and ask them if they are desirous of having protection.

Senator DECONCINI. You go to the candidates?

Mr. KEATING. That is correct.

If they decline protection, we ask to have that declination in writing. In this case we have had declinations from Senator Dole and Governor Dukakis thus far. Those are the two principals.

There are three individuals who were candidates that were never provided protection because they did not meet the guidelines.

Senator DECONCINI. Who were those?

Mr. KEATING. They were Governor Babbitt, Governor DuPont, and Secretary Haig.

On April 1, according to the guidelines, we have to reexamine protection and determine at that point whether or not the remaining protective candidates have received sufficient delegates pledged as of April 1 to warrant further protection.

Senator DECONCINI. Is that based only on that or do you also consider any threats or what-have-you or is it merely numbers of delegates?

Mr. KEATING. It is really a combination of the two. Obviously, there have to be objective standards which provide or do not provide for protection. If we were to be very subjective and arbitrary, an individual who doesn't meet any of the criteria can say: I am really a candidate, and I am threatened. Therefore, I need to have what is $15,000 per day for candidate protection. It is very, very expensive.

CANDIDATE PROTECTION COSTS

Senator DECONCINI. Is that what the cost is?

Mr. KEATING. Yes, sir.

Mr. SIMPSON. We have done some things, and we are performing a cost comparison now. It is somewhere between $13,000 and $15,000. We have done some rather innovative things to try to keep the costs down.

Senator DECONCINI. Per day, per candidate?

Mr. SIMPSON. Yes, sir.

I think we are going to be successful, and we can get back to you with the computations.

Senator DECONCINI. I would like to see that.

Mr. KEATING. If I may, Mr. Chairman and Senator, conclude by saying that the advisory committee will be asked whether or not it is time, effective April 1, to examine the delegate count at that point to withdraw protection from any candidate. That is advice. The Secretary of the Treasury can accept or reject that advice because of security considerations. That decision, of course, even the analysis rests with the Secretary.

Senator DECONCINI. The Secretary makes that decision, not the commission?

Mr. KEATING. That is correct.

The advisory committee is strictly advisory to the Secretary of the Treasury. This process is about to develop again, as we did back in December and January, for an April 1 decision.

Senator DECONCINI. Thank you.

PAPAL VISIT

Mr. Simpson, you had indicated last year that the Pope's visit was going to cost between $5 and $7 million for the Secret Service.

Do you have any idea what it actually cost?

Mr. SIMPSON. It was a little under $5 million, Senator, about $5 million. The rest of the money was given back to the general fund.

Senator DECONCINI. It was.

Mr. SIMPSON. Yes.

WHITE HOUSE COMPLEX SECURITY

Senator DECONCINI. Mr. Simpson, I also note in your justification that you indicate that increased acts of terrorism have raised concerns about reaction capabilities to threats against the White House complex. I think that is on page 8.

Part of your program increase of $1.4 million and 117 positions would go to permanently fund an emergency response team for the White House.

Can you tell us in open session, if you can, about this increased threat to the White House, who poses it, and how you are staging this? Obviously, if that is of a confidential nature, we can do it at another time.

Mr. SIMPSON. We would prefer, Senator, if we could, to give you that in a private session.

I can tell you that what we are doing now is coordinating some of the emergency responses with overtime, working the officers on their days off, and that sort of thing. However, this will be a much more effective way not only to formulate a response team capability, but also to reduce some of the overtime areas. Then we will have individuals who are mentally and physically healthy and are ready to go. If you keep working people on their days off and on overtime, you will wear them down pretty quickly.

Senator DECONCINI. I presume that you can say publicly that the threat of potential terrorism is enhanced or increased to justify this.

I am going to ask you to work with my staff, and ask other members if they want to join, and maybe you can come to one of our offices and give us that background.

Mr. SIMPSON. We would be happy to.

COUNTERSNIPER PROGRAM

Senator DECONCINI. You also indicate in your justification, Mr. Simpson, that additional officers will be required at Secret Service next year for the countersniper program. You attribute the need to a 60-percent increase in the workload since 1981.

Can you tell us about this increased workload and, first, what is the countersniper program? I understand it goes back to 1981, if I am correct, and please be as specific as you can at least with the constraints of this session.

Mr. SIMPSON. The countersniper team is just what the term infers, Senator. It is people who are experts in firing rifles to counter any type of possible assassination attempt or some attack against any of our principals.

These people are probably the finest shooters in the country and have proven themselves to be so in competitions with other law enforcement agencies and the military. They have even outshot the Marines special forces.

What we need is the ability to ensure that if, God forbid somebody has to fire, we don't have a situation like we had in New York several years ago. A youngster came to the window with a weapon and, thank goodness, we had one of those people on a building. When they are looking through the scope it requires a judgmental call: Does he or she have a weapon? Is that person going to use it for some heinous act? We must have individuals who are not only expert marksmen, but they also require excellent judgment.

We have increasing requests for their particular abilities for all of our protectees. We used them, for instance, during the Papal visit, as well as for the President.

Senator MIKULSKI. You used them for what? I am sorry, I didn't hear you.

Mr. SIMPSON. We used them for the Papal visit, Senator Mikulski.

We also use them for the President and the Vice President. If we had some real intelligence data on any of the candidates, we would have used them there.

Senator DECONCINI. You use it for foreign dignitaries too, if you are called?

Mr. SIMPSON. Yes.

Senator DECONCINI. What you are saying is that the calls or the requests are justifiable 60-percent increases?

Mr. SIMPSON. Yes; they are. We can demonstrate that statistically. We have a slide exhibit that we would be more than happy to show you, the staff, or any members of this committee. The exhibit focuses on a certain area so that you can see the vulnerabilities without these individuals.

Senator DECONCINI. Those people travel with or they go ahead wherever the President or the dignitary or whomever you are providing that protective service to?

Mr. SIMPSON. We send them ahead, sir. They survey the areas where the individual protectee will be to see where the high ground and the potential problems are. They position themselves in the best available area to make sure that they can counter any kind of assault.

FOREIGN DIGNITARY SPOUSE PROTECTION

Senator DECONCINI. My last question, Mr. Simpson, is: Last year, in response to my question for the record, you testified that the State Department had not reimbursed Secret Service for protective services provided to spouses of foreign dignitaries for either fiscal year 1986 or 1987.

Protection of foreign dignitaries spouses became a Secret Service protective responsibility on May 1, 1986, pursuant to a national security directive No. 207.

What is the current status of reimbursement from State and, if they have not paid 1986 and 1987 bills to date, what is the reason and how much?

Mr. SIMPSON. I wish I could tell you what the reason is, Senator. There is a difference in the interpretation of the law. We say it is one thing. State Department says it is another. We and the Secretary have tried on a number of occasions to sit down with State and reach a conclusion as to the amount they owe us.

Until this point in time, we claim that they owe us approximately $659,868. They have paid us $131,628.

Their contention is that they shouldn't have to reimburse us for particular areas of responsibility; that is, some of the salaries, costs of travel, and other items for our employees who had to accept this responsibility.

We are saying that is not the case, and we have a formula. Our attorneys and the Secretary, who I believe is an attorney in his own right, think we are right.

Senator DECONCINI. That is roughly $600,000 for 1986 and 1987?

Mr. SIMPSON. Yes, sir; $660,000 to round it off.

Senator DECONCINI. $659,000 and you have received $131,000.

Are there ongoing negotiations, Mr. Secretary, at all, do you know, with the State?

Mr. KEATING. Mr. Chairman, that is the frustrating part. Sometimes I think I am dealing with a foreign country when I am dealing with the State Department on this issue.

Originally, when Director Simpson and I got involved 1½ years ago, we met with their budget people at a budget level. We elevated that to a senior staff level. We elevated that to the Assistant Secretary's level, Mr. Lamb. I met with him. Mr. Garmon, who is the Deputy Director of the Secret Service, and I met with Mr. Lamb.

Again, the magnum silentium, the great silence, in between these negotiations. I elevated it again to the counsel of the State Department. I sat down with him and went over the facts and the figures with him. Again, the great silence. I asked that Peter McPherson, our new Deputy Secretary, call John Whitehead their Deputy Secretary and give him information. He did so. Again, the great silence.

Now, we have gone back to the wall again, where our budget people in management are talking to their budget people.

I used to do some collection work, Senator, in the early days of my law practice, and it seems the only way to do this sort of thing is to sue somebody. Just discussing this issue with them over and over again, jawboning with them, has borne no fruit. It has been utterly unsuccessful, and I think it is outrageous that they don't pay us.

Senator DECONCINI. You haven't thought about attaching the Secretary's protocol fund or something like that?

Mr. KEATING. I think that is something we ought to look into, but it really is maddening that we can't make them realize the responsibility.

Senator DECONCINI. I thank you for that explanation, and let me tell you we are going to look at it in this committee and see what we can do to clarify that. Maybe there needs to be some change in the law or something, but certainly we ought to get it clarified.

The Senator from Maryland?

Senator MIKULSKI. Thank you.

Just picking up on that point, Mr. Keating, Director Simpson, we have guarded Secretary General Gorbachev and Mrs. Gorbachev, did we not?

Mr. SIMPSON. Yes, ma'am.

Senator MIKULSKI. I mean the Secret Service. I know in my meeting with Mrs. Gorbachev I saw you there. Is this what the State Department is not reimbursing you for?

Mr. SIMPSON. What happened, Senator, was Public Law 99-399 was passed on May 1, 1986, and we accepted the responsibility for spouses, which was initially with the State Department. They protected the ladies.

For instance, if Mrs. Gorbachev had visited prior to May 1, the State Department would have accepted that responsibility. After May 1, we accepted it.

The arrangement was that State would reimburse us from their budget; because they had already received money for 1986-87, which we figure is close to the $660,000 that they still owe us.

That is why we were protecting Mrs. Gorbachev, and we are protecting all the ladies now, all of the spouses, when the foreign dignitaries visit.

Senator MIKULSKI. And Mr. Thatcher? [Laughter.]

Mr. SIMPSON. And Mr. Thatcher, yes, ma'am. He doesn't come with her, though, but we would, yes.

ROWLEY TRAINING CENTER

Senator MIKULSKI. I am going to come back to some of the space concerns and one is the Rowley Training Center, part of which the chairman raised.

Could you tell us just exactly what funds you do need and what you need them for so that we have a very clear understanding of what you think you need, why you need it, as compared to what OMB thinks you need?

Mr. SIMPSON. Can we submit that for the record, Senator?

Senator MIKULSKI. Yes; we would like that very much, if we could have that.

[The information follows:]

ROWLEY TRAINING CENTER

A total of $2.5 million is necessary to complete the revised master plan. This includes the $1.5 million reduction to our original request of $6.5 million in fiscal year 1988, which covers all phases of development. Under phase 1 (construction 1986), we could not complete the vehicle storage building, drainage of a low area (approximately 41 acres), and improvements to the existing storm water retention pond. Significant portions of the perimeter road network (protective driver training roads) under phase 2 (construction 1988) would not be finished. We only have an estimate of the costs of the tactical response training area, phase 3 (construction 1987), which would have to be deleted. These segments have not been defined yet and will be identified during contract negotiations.

Our fiscal year 1987 Small Business Administration construction contract (minority firm) for phase 3 is short an estimated $785,000 due to escalating construction costs in the Washington area. Any further reductions to the scope of work will impact severely on the integrity of this phase. In fiscal year 1986, our $5 million appropriation for Rowley was reduced by $215,000 as a result of Gramm-Rudman-Hollings. All of these factors compose the total shortfall of approximately $2.5 million.

CONSOLIDATED BUILDING

Senator MIKULSKI. Second, as I understand it, you are pretty crowded up at 1800 G Street, and you need space up there. How much space do you need, and what are the obstacles for you getting it there?

Mr. SIMPSON. I can't give you the exact amount of space, but we can get it for you. As for the obstacles, most of them have been overcome. One of the obstacles now is to find a place for the National Science Foundation, who are very cooperative where we are concerned. This is essential in order to consolidate our components in one building. We ask you and any members of this committee for any help that they might give to find the National Science Foundation appropriate quarters.

Senator MIKULSKI. I conducted the hearing for the HUD-Independent Agencies Subcommittee the other day, specifically with the National Science Foundation, and we encouraged them to really expedite their move, knowing that you need space and they need space.

Everyone wants to be close to the White House. I would like to be close to the White House. But, we feel that their mission is such that they don't have to have the same proximity to the White House and to Justice and so on because they don't have the continual interaction with the White House that occurs. So we are going to be encouraging them to move.

Again, it would be helpful to us if we know what you need, when you need it, and why do you need it.

Mr. SIMPSON. Yes, ma'am.

[The information follows:]

CONSOLIDATED BUILDING

At this time, our total projected space needs at 1800 G Street are approximately 314,000 square feet. In that we presently occupy approximately 146,000 square feet at that location, we project a total requirement for an additional 168,000 square feet (approximately) at 1800 G Street.

Consolidation would enable us to amalgamate our fragmented offices. This would, in turn, enhance production and improve management of all Secret Service activities and increase operational effectiveness and efficiency. Also, recent technological advances have impacted space requirements for headquarters operations. The overall increase in both the investigative and protective workload, coupled with the advent of new responsibilities (credit and debit card fraud, electronic funds transfer, et cetera), has spawned a corresponding need for new technological development, as evidenced by the Service's acquisition of a new mainframe computer and a nationwide communications network. In addition, the 1800 G Street facility must accommodate the installation of a digital PBX switch as proposed under a Treasury Department contract for new telecommunications equipment. That project, along with the other technological advances, will generate significant additional space requirements in order to accommodate new equipment and the people associated with its operations.

Toward this end, the U.S. Secret Service is looking toward consolidation at 1800 G Street. The initial step in this consolidation includes the acquisition of approximately 42,600 square feet of space (10th floor, 1800 G Street). This space is currently occupied by the World Bank. However, we have been assured by World Bank officials that they will be vacating this space. A prospectus for the 10th floor space has been issued by GSA-central office. It is presently at OMB for review/approval. The acquisition of the remainder/balance of the space that is required by the U.S. Secret Service at 1800 G

Street depends on the timeframe associated with the National Science Foundation [NSF] vacating their space at 1800 G Street.

COMPUTER FRAUD

Senator MIKULSKI. The last area of questions that I have relate to your traditional functions, one of which I will call the G-man function, which was before you guarded Presidents and so on.

This deals with the new kind of crime, like computer security. Is the Secret Service the one-stop shop within the Federal Government for computer security?

Mr. SIMPSON. No, ma'am; we are not.

Senator MIKULSKI. Is there a lead agency and should there be a lead agency, because to me the vulnerability of computer pirating or computer embezzlement are really new frontiers of law enforcement?

Mr. SIMPSON. We feel as though we have concurrent jurisdiction in a number of these areas with the FBI.

We have a number of concurrent jurisdictions, one of which happens to be computer fraud, with the FBI. We feel as though we can handle our portion of it with the FBI for many reasons. There are some traditional things that the FBI has done over the years, wire fraud and similar fraud, which involves electronic funds transfer and computers and that type of situation.

What we are trying to do now is work out a memorandum of understanding with the Bureau as to what the jurisdictions will be, what we will do, and what they will do.

We have progressed a long way in developing expertise to fight computer fraud. At a point in time several years ago, offense was way ahead of defense. We have evolved some defensive measures, and we are beginning to catch up. We are doing an excellent job of convicting some of these individuals.

I think the Service could be considered the experts in the area of electronic funds transfer [EFT] fraud. There is another area which is virtually new, and we had the first case in California. It is these boards that they use to get numbers and information from—the term slips my mind—telemarketing fraud, Senator.

It is a very complicated, very indepth type of problem that requires extensive investigative work. You must have experts in computers who know how to derive information so that you can bring a person to trial and how to put it in a reasonable and intelligible form.

I think we are doing one heck of a good job of developing and maintaining defensive measures to fight computer fraud.

Senator MIKULSKI. I feel that this is going to be one of your emerging, growing, and expanding challenges. Do you feel that you have the resources to do that?

Mr. SIMPSON. We asked for more resources. We, as you well know, initially go to Treasury. We then debate with Treasury as to what we think we need and what they think we need. We received about $386 million; and when it went to OMB, they cut it back to $352 million.

During the budget process, we asked for a number of special agent positions for our investigative program which were all cut by OMB.

SECRET SERVICE WORK FORCE

Senator MIKULSKI. This one takes me to my final question, and one I ask in almost every hearing I go to. I am concerned about our work force in the future.

I know that our country is facing a demographic challenge of going from a labor supply to a labor shortage. As you look ahead, Director Simpson and Mr. Keating, do you feel that you will be able to recruit and retain the people you will need for the kinds of challenges the Secret Service will be facing in the future?

If not, are there things that we need to start looking at now to be ready for that?

Mr. SIMPSON. Let me respond to that. When we asked for a 13-percent across-the-board raise for our Uniformed Division personnel, that was an indication of what we need to ensure a healthy, viable work force. We compared our needs to those of police departments in surrounding localities, and 13 percent would make us equitable. That is one issue.

The other issue is our administrative personnel. We have difficulty competing with the private sector for administrative personnel. I can't, as an agency head, compete with Xerox and IBM for good solid administrative people. Thank goodness, there is an ethic in this country that when people come to public service they do so with the idea that they will not become rich. However, they do feel that there is a compelling need for it. We are fortunate that we have many of those people, but it is becoming more and more difficult.

On the agent side, our agents have to move around to various cities, high cost areas. In the area that I was originally from, Boston, MA, I couldn't afford to buy a house there on my present salary. I don't consider that to be a measly one by any stretch of the imagination.

There has to be something that someone understands that will make the individual whole. We are not asking the taxpayer to give disbursements across the board. However, if your taxpayer wants a good viable Federal work force; then they have to pay for it like private industry or anything else.

I think we can make whatever case we need to in order to resolve these inequities which I feel are going to knock the socks off the Federal employee over the coming years.

Senator MIKULSKI. The type of agent you will need will be someone who has computer skills, somebody who has expertise in accounting, and a whole range of other things that will be in short demand in the private sector.

Isn't that what you are saying?

Mr. SIMPSON. That is true.

Senator MIKULSKI. It is not only some wonderful guy with his undergraduate degree from Fordham that you will need.

Mr. Chairman, I think that answers my questions. The ones I had related to the pay raise, both for the uniformed officers and the others, you raised and we look forward to pursuing that.

Mr. SIMPSON. I would appreciate that very much, Senator. When Mrs. Horner comes up, if you could ask her that question, it would be very helpful to us. We feel as though 13 percent is not out of line by any stretch of the imagination.

Senator MIKULSKI. I fully agree with you.

Senator DECONCINI. Mr. Simpson, thank you very much for your testimony.

ADDITIONAL COMMITTEE QUESTIONS

We will have questions submitted by Senator D'Amato as well as Senator Domenici.

Senator Domenici is tied up in the Budget Committee and other things this morning and can't be with us. He asked me to express his regrets, but we do have questions and we would ask that you have your people answer them for us.

Mr. Keating, thank you for being with us this morning.

Mr. SIMPSON. Thank you very much, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

Senator DeConcini: Your justifications, p. SS-19, indicate that you will be able to save $7.4 million in FY 89 due to lower-than-anticipated switch rates to FERS. Your object class table shows that you will apply this reduction to travel; transportation; rent payments; and other categories, other than "personnel benefits"-- the normal account that contains FERS.

Can you explain why you are taking these savings in these other object class categories?

Mr. Simpson: The Secret Service and the Office of Management and Budget do not agree on the amounts necessary for the Service to maintain its' current services level. In our FY 1988 budget request, we allocated monies considered by OMB to be for FERS to other object classes where we felt the needs were greater. OMB is now reducing our FY 1989 budget request by those amounts. Since the monies were originally portrayed in these object classes, we are now removing them accordingly.

Senator DeConcini: Your budget request for management and support services for research and development has more than doubled since fiscal year 1987-- from $130,000 to $275,000 next year.

Why this large jump since FY 1987?

Mr. Simpson: As noted on Page SS-25, our expenditures for CONSULTING AND RELATED SERVICES are characterized as (a) Consulting Service, (b) Special Studies and Analyses and (c) Management and Support Services for Research and Development. When these expenditures are considered in aggregate, the increase is modest --- $521,000 in FY 1987, $578,000 in FY 1988 and $591,000 in FY 1989.

In viewing the Management and Support Services for R&D, it is also necessary to consider expenditures for Special Studies and Analyses since it is not unusual to conduct special studies and analyses before contracting for management and support services for R&D projects. While expenditures for Management and Support Services increased $145,000 from FY 1987 to FY 1989, expenditures for Special Studies and Analyses decreased $81,000. This indicates that certain studies and analyses conducted in FY 1987 and FY 1988 are nearing completion and are resulting in projects which now require Management and Support Services.

On page SS-26, the description of the CONSULTING and RELATED SERVICES expenditures relate primarily to (1) consultants, advisors and managers of our Behavioral Research studies and the pursuance of recommendations and (2) classified studies to acquire data which is essential to enhance security at the White House to counter terrorist activities.

Expenditures to pursue recommendations presented by Behavioral Research consultants and advisors increased from $130,000 in FY 1987 to $275,000 in FY 1989. These specific expenditures have increased due to

(1) the development and expansion of the Mental Health Liaison program which costs about $25,000 per office per year, and by FY 1989 will involve 8 field office districts

(2) the continuation of projects regarding Dangerousness and ID Class Classification Coding.

Senator DeConcini: Early in your justifications (P. 10) you indicate that your budget includes an increase of $1,470,000 to annualize 30 officer slots that Congress gave you in fiscal 1986. You then say that you had enough money to annualize these slots again in fiscal 1987. But I notice that on page SS-20, you show a decrease of $1,414,000 for the annualization of 30 authorized positions.

Are you telling us that OMB denied you the funds to annualize the 30 slots, or are you telling us that you can absorb these annual costs in fiscal 1989?

Mr. Simpson: In the FY 1989 budget, OMB has approved full funding in the amount of $1,470,000 for the annualized costs of the 30 additional Uniformed Division Officers authorized in FY 1986. In reviewing the Congressional submission, it appears that the program increase of $1,470,000 is offset by the reduction of $1,414,000 which are designated for the 30 authorized positions. The explanation for this reduction is based on the timing of both the passage of the Continuing Resolution and the final passback of OMB.

During the review process, our FY 1989 budget included adjustments to our FY 1988 Congressional request of $360,556,000, which did not include funding for the 30 authorized positions. In reviewing our FY 1989 Budget Request OMB approved our request for $1,470,000 for the 30 authorized positions. Subsequent, to this decision, the FY 1988 Continuing Resolution was passed which appropriated a total of $367,000,000 and included additional funds in the amount of $1,414,000 for the 30 positions. Since OMB had to increase our FY 1988 base from $360,586,000 to $367,000,000 per the C.R., the additional funding authorized in the C.R. had to be reduced from the FY 1989 budget in order to avoid duplication of funding. If these funds were not reduced the Service would have received a net total of $2,884,000, the total of the FY 1988 amount of $1,414,000 plus the FY 1989 increase of $1,470,000.

Senator DeConcini: Mr. Simpson, this may be a small item, but you are requesting a change in your "boilerplate" budget language that would delete the requirement that the Committee give advance approval to your agency, when Secret Service intends to breach travel limitations that may be established in the Treasury bill or some other Act. You merely want to let us know in advance.

Why are you requesting this change in your budget boilerplate language?

Mr. Simpson: The Service is requesting this change in our language with regard to our travel limitations because of the uncontrollable nature of our travel budget. As mandated by law, we must provide a secure environment for all protectees whenever and wherever they travel. The Service has no discretionary powers over the travel schedules of our protectees, which often times involves unexpected trips which cannot be anticipated or controlled. It is because of these uncertainties that we are requesting our Appropriation Language be changed to allow for advanced notification to Congress when the Service expects to exceed the fund budgeted for travel.

Senator DeConcini: You are also asking to drop the reference to fiscal year in your "boilerplate" language regarding Secret Service advance payments for commercial accommodations.

Why do you need this deletion?

Mr. Simpson: This deletion is requested in order to avoid having to amend the Appropriation language relating to advance payments for commercial accommodations with each budget submission just to change the fiscal year. This language is necessary for each fiscal year.

Senator DeConcini: You are requesting $2,660,000 for continued consolidation of Secret Service staff into your Headquarters building at 18th and G Street, N.W. You indicate in your justifications that this year you have been able to secure 42,000 square feet of space on the 10th floor. As I understand it, the only thing that stands between your agency's total consolidation at 18th and G Streets, is the National Science Foundation's reluctance to move to Maryland.

What is the status of the proposed move of NSF to the Silver Spring Federal building?

Mr. Simpson: It is our understanding that NSF will not be moving to the Silver Spring Metro Center. The Montgomery County Council has put a limit on the size of the Silver Spring Metro Center, which in effect has left

NSF out of the building. Therefore, NSF has a prospectus at OMB which is requesting leasing action for space for NSF in the metro-wide (Washington, D.C.) area.

Senator DeConcini: Mr. Simpson, on Wednesday, Senator D'Amato, Senator Domenici, Senator Mikulski, and 34 other Senators introduced a major piece of anti-drug legislation. As of this hearing, we have more than half of the Senate supporting this legislation.

As we examine ways to tailor our resources to attack the drug problem on multiple fronts, I believe the time has come to mobilize ALL OF OUR LAW ENFORCEMENT AGENCIES TO COMBAT THE DRUG PROBLEM. I would include your agency in that category.

I know that you have a full platter of duties at Secret Service, but your people are also, perhaps, the most highly trained, highly skilled law enforcement men and women we have.

QUESTIONS SUBMITTED BY SENATOR ALFONSE M. D'AMATO

Senator D'Amato: What would it take to get the Secret Service enlisted more deeply into the War on Drugs? I know that you do a great deal now in the area of anti-terrorism, but what would it take in terms of resources; legislation; etc. to bring you in? And would you support getting in more deeply?

Mr. Simpson: The Secret Service is postured well to contribute in the suppression of profits from illegal drugs. Our assigned jurisdiction appears sufficient enough to participate in creating investigative task forces dedicated to this profit suppression and further profit distribution. The investigative jurisdiction assigned to the Secret Service involves such a diverse spectrum of violations relating to bank fraud, crimes against banks, and integrity of the nation's monetary instruments, that it provides a most desirable foundation upon which to create and participate in a task force to track and suppress drug profit distribution.

The Service has participated in numerous efforts with other Federal agencies to combat financial crimes. In fact, the Secret Service continues to actively participate with the FBI and the New York City Police in the Joint Financial Crimes Task Force or (JFCTF). This effort focuses primarily on frauds involving government and non-government securities and has resulted in the successful prosecution of numerous individuals and the recovery/seizure of literally millions in stolen or counterfeited securities. The JFCTF has proven that sharing manpower, resources, and intelligence is a most efficient means to combat financial crimes.

The task force concept as it relates to financial crimes was addressed at a recent Organized Crime Planning Council conference in Miami, Florida. David Margolis, Chief, Department of Justice, Organized Crime and Racketeering Section, expressed interest in utilizing the Secret Service jurisdiction as it relates to violations against the FDIC. Mr. Margolis suggested that this jurisdiction, combined with similar jurisdiction of the IRS, may be effective in enhancing bank fraud investigations enabling the FBI to dedicate its burdened resources to combating drug crimes.

The diversity of our jurisdiction provides a spectrum of violations that lend themselves readily in participating in the tracking and suppressing of drug profits. The counterfeiting of U. S. currency and obligations, FDIC fraud, counterfeit access device statutes, false identification statutes and other violations relating to financial crime are often associated with drug trafficking.

Perhaps the most astounding example of money laundering was accomplished by the acquisition of the First Fidelity Bancorp of Burlington, N.J. Money was illegally laundered through the bank via a series of loans which ultimately caused the bank to fail. The acquisition of the bank was accomplished with false financial and personal information provided to the Federal regulator, in this case, the FDIC. This was a violation within the primary enforcement jurisdiction of the Secret Service as it relates to the FDIC.

The following is a list of statutes within Title 18, U.S. Code, specifically assigned to the Secret Service that may be considered effective in pursuing drug profiting:

Sections 471-474 - Counterfeiting Statutes

Section 510 - Relates to theft/forgery of U. S. Obligations

Section 657 - Theft, Embezzlement, Misapplication of Funds

Section 1006 - False entries

Section 1007 - False statements to the FDIC

Section 1014 - False statements to the FDIC (and other agencies which are not assigned to the Secret Service for investigation)

Section 1028 - False Identification

Section 1029 - Credit Card Fraud (Counterfeit Access Device)

Section 1030 - Computer Fraud

The following statutes within Title 18, U.S. Code, are statutes in which the Secret Service shares concurrent jurisdiction, or statutes which are assigned to other federal law enforcement agencies but are closely associated with Secret Service jurisdiction and, if shared with the FBI or other agencies, may assist in pursuing drug profiteering:

Section 215 - Bank Bribery (This section is assigned to the FBI specifically. It would be recommended that the Secret Service be vested with concurrent jurisdiction.)

Section 513 - Counterfeiting securities of States/Private entities

Section 1344 - Bank Fraud

Section 1956/1957 - Laundering of monetary instruments (the Secret Service shares limited investigative jurisdiction with other Treasury and Justice agencies. It would clearly enhance the Service's effectiveness if our concurrent jurisdiction in this area was expanded).

With the increasing demands being placed on the Service's resources as a result of increased protective activity, and the investigative responsibilities resulting from the Comprehensive Crime Control Act of 1984 in the areas of credit card fraud and computer fraud, the Service's current resources are fully committed.

The level of additional resources required would have to be determined after assessing the impact on our workload if the Service becomes more involved in the War on Drugs.

Senator D'Amato: Page 178 of the National Drug Policy Board's Strategy Report of January 1987 States that the intelligence community assists drug law enforcement agencies by supplying intelligence on many areas.

In your gathering of intelligence to counter terrorist threats, do you come across intelligence on Narco-terrorist threats? If so, do you share this with other agencies such as the DEA?

Mr. Simpson: The Secret Service obtains intelligence primarily in two ways: by gathering information in the field and from other intelligence agencies.

Our direction of interest in the intelligence field is toward that information which affects our ability to carry out our protective and investigative missions. As might be expected, information concerning drug trafficking is sometimes developed as it is in our other investigations. The long-standing policy of the Secret Service is that we will share information developed by the Secret Service with those agencies who have the jurisdictional responsibility of enforcing the applicable laws.

Of course, there are Federal laws that restrict the passage of information received from one agency to a third agency. In those cases, it is the responsibility of the originating agency to provide the information to the agency with the proper jurisdictional authority. We believe this obligation is well understood within the intelligence community.

A primary conduit for information developed by the Secret Service is the El Paso Intelligence Center. Additionally, specific allegations, such as evidence discovered in searches, is usually passed directly to the interested Federal, State or local agency.

In short, the Secret Service has always supported the free flow of information between intelligence and law enforcement agencies within the bounds of the law.

Senator D'Amato: Since you do have a very significant contribution to make to the anti-drug effort - particularly in the intelligence area - and since there is an Intelligence Subcommittee of the National Drug Policy Board, don't you think it might be helpful for the Secret Service to be part of the National Drug Policy Board?

Have you even been asked to be a participating member of the National Drug Policy Board or the Organized Crime Drug Enforcement Task Force? Do you believe that the Secret Service should be a part of these organization? Could you be a useful participant in these organizations?

Mr. Simpson: The Director of the Secret Service is a member of the National Drug Policy Board's Law Enforcement Coordinating Committee. (The Secretary of Treasury is a member of the National Drug Policy Board.) The Secret Service is not a member of the Organized Crime Drug Enforcement Task Force.

We feel the Secret Service can make a significant contribution to the war on drugs. As the oldest Federal law enforcement agency, we have accumulated a vast body of experience in investigations, particularly those involving payment systems such as cash, checks, credit instruments and Electronic Funds Transfers. Our shared jurisdiction over fraud involving identification documents could be used effectively against drug traffickers. Additionally, we have for many years been able to gather and use intelligence effectively and are not restricted from using the information we develop as the IRS often is. It would seem these talents would be valuable in the effort to destroy the drug industry.

If these organizations need this kind of expertise, the Secret Service stands ready to give our whole-hearted support to this cause. We believe this extraordinary threat to our nation calls for an extraordinary effort by everyone who is able to contribute.

Senator D'Amato: Page 4 of your budget justification states, "the monetary decrease is due largely to the non-recurring costs of the 1988 Presidential Campaign which will be fully completed during the first half of FY 1989."

Can you assure us that all of the proposed $15,000,000 decrease is indeed due to this non-recurring cost and will not cut into any other operations? Do you have any concerns that this proposed decrease might affect your other operations?

Mr. Simpson: Included in our FY 1989 budget request are the following adjustments to our FY 1988 Appropriation.

FY 1988	$367,000
Program Increases	16,296
Maintaining Current Level	12,265
Non-Recurring Costs	-43,561
Total, FY 1989 Request	$352,000

Included in the reduction of $43,561,000 are the following:

1.	Non-Recurring Candidate/Nominee Costs	$-22,785
2.	Technical Security	-1,455
3.	ADP Programs	-2,294
4.	Communications Programs	-200
5.	Technical security Relocations	-152
6.	Two Less Workdays	-1,311
7.	Renovations	-1,544
8.	Reduction to the Federal Employees Retirement Systems (FERS)	-7,406
9.	Reduction of Funds Obtained in Fiscal Year 1988 Continuing Resolution	
	a. Non-Recurring Cost of Rowley Training Facility	-5,000
	b. Annualization of 30 Authorized Positions	-1,414

As the above chart indicates, slightly over 50% of our non-recurring costs are for the campaign. However, one area the Service is concerned about is the reduction of $7,406,000 from the FERS account. As a result of this reduction, the Service was forced to take an across the board reduction to crucial areas which were increased to maintain current levels in FY 1988.

The other area of concern for the Service is the incremental increase of $12,265,000 for maintaining current levels in FY 1989. Of this amount, a total of $6,947,000 is included for the FY 1988 and 1989 pay raises, which leaves only $5,318,000 for the increased cost of maintaining current levels.

This net amount of $5,318,000 for maintaining current levels coupled with the FERS reduction will result in the delay and/or elimination of our program enhancements.

These actions are the result of disagreement between the Office of Management and Budget and the Service regarding the amounts necessary for maintaining current levels.

Senator D'Amato: Page SS-2 of your Budget Justification States, "construction at the James J. Rowley Training Center will continue with $5,000,000."

Last year, this subcommittee recommended $6,500,000, following your request, to complete the final phases of the development of this training facility.

Was the $5,000,000 appropriated in FY 1988 enough to complete the development?

Mr. Simpson: No, the $5,000,000 appropriated in FY 1988 was not sufficient to complete the remaining phases of development.

Senator D'Amato: Don't you really need between $1,500,000 and $2,500,000 to complete this facility?

Mr. Simpson: Yes, a total of $2.5 million is necessary to complete the facility. This consists of the $1.5 million shortage in Fiscal Year 1988. Our Fiscal Year 1987 Small Business Administration construction contract (Minority firm) for Phase III is estimated to be short $785,000 due to escalating construction costs in the Washington area. Any further reductions to the scope of work will impact severely on the integrity of this phase. In Fiscal Year 1986, our $5 million appropriation for Rowley was reduced by $215,000 as a result of Gramm-Rudman-Hollings. All of these factors, compose the total shortfall of approximately $2.5 million.

Senator D'Amato: Is this amount in your budget request?

Mr. Simpson: No, the $2.5 Million is not currently in our Fiscal Year 1989 Budget request.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

Senator Domenici: Page SS-23 of your Budget Justification States in the "Detail of Permanent Positions" that there were 176 unfilled positions at the end of FY 1987. Further, you expect 71 positions to remain unfilled at the end of 1988 and you anticipate 88 positions to be unfilled at the end of 1989.

Please explain why you are not filling your positions.

Mr. Simpson: The unfilled positions are primarily clerical and Uniformed Division positions. While recruitment efforts for both types of positions have been extensive, the unique character of, and high standards required by, the Service have resulted in many positions going unfilled.

In the case of the Uniformed Division, until February 28, 1988, the starting salary for an officer was significantly below that of most major metropolitan and state police departments/law enforcement agencies. The Service was not only non-competitive in the job market, but also the Uniformed Division was losing personnel to state and local police departments. Further, the requirement that all personnel receive a Top Secret security clearance results in a smaller percentage of applicants being judged as acceptable than is the case in most other federal, state and local law enforcement organizations. Many applicants will not or cannot wait for the completion of a background investigation to secure employment. In total, the Service has been able to hire only 3.6% of all Uniformed Division applicants.

The shortfall in clerical recruitment is somewhat analogous to that of the Uniformed Division. Recently a special (higher) salary rate was approved for clerical positions in a few major metropolitan areas. However, in the case of clerical recruitment, the organizations with which the Service competes for clerical personnel are generally other Federal agencies which pay the same special salary rate as the Service pays. In addition, the turnover rate of our clerical personnel is significant, principally because of higher salaries offered by private industry for similar clerical positions. Further, a growing number of such private firms are located in the suburbs making employment with them even more attractive to our clerical employees who have to commute downtown at considerable cost and inconvenience.

Senator Domenici: I realize that the Secret Service has strongly opposed the repeal of the "500-foot rule." Earlier this week, the Supreme Court struck down the District of Columbia's ban on all demonstrations within 500 feet of an embassy.

What Impact will this decision have on the Service's ability to carry out its protective responsibilities for embassies and other diplomatic facilities in the District?

Mr. Simpson: As I have previously reported in prior testimony, the "500-foot rule," as set forth in the District of Columbia Code, greatly assisted us in fulfilling our protective responsibilities. The Supreme Courts decision will make that job infinitely more difficult.

As you know, the Congress has given the Secret Service the responsibility of protecting foreign diplomatic missions in the District of Columbia. We also are responsible for protecting visiting Heads of State. We believed, and continue to believe, that the 500-foot buffer provided in the D.C. code is essential if the Secret Service is to provide an acceptable level of security for foreign diplomatic personnel and property in the District of Columbia.

It is clear to us that the sheer number and high visibility of diplomatic missions in the nation's Capitol distinguish Washington, D.C., from any other city in the United States. These missions provide a strong focal point for those wishing to demonstrate against policies of foreign governments. Experience indicates that such demonstrations, even if initially peaceful, can exacerbate tensions and lead to violent confrontations.

That is why the "500-foot rule" has been so valuable. The rule has provided the necessary buffer of space and time to enable the necessary and proper response to circumstances that often quickly change.

It is important to note that without prior approval by a foreign government, we are prohibited from posting personnel on the premises of foreign embassies. Consequently, unlike at the White House and other official buildings of the United States, we are permitted a secondary or fall-back defensive position at the embassies. That is why the 500-foot buffer is of great importance.

Now, the Supreme Court decision appears to permit us no buffer whatsoever. This clearly places an undue burden on our ability to protect embassies.

In addition, the decision places an undue burden on the supervising officer at the scene. Instead of the clarity provided by the "500-foot rule" itself, the Supreme Court decision permits action "only when the police reasonably believe that a threat to the security . . . of the embassy is present" or when "normal embassy activities have been or are about to be disrupted." The officer on the scene, therefore, will now have to weigh a myriad of factors before making sensitive security decisions. These decisions, moreover, will undoubtedly subject the officer to potential personal liability, as well as judicial second-guessing.

We believe the "500-foot rule" as set forth in the District of Columbia code strikes a careful balance between a demonstrator's right to freely express his or her views and the need of the United States to assure that foreign embassies in the District of Columbia remain secure. We are clearly disheartened by the Supreme Court decision, a decision which takes from us a crucial means of assuring embassy security.

Senator Domenici: The Fiscal Year 1988 appropriation provides the $29.9 million requested for candidate protection activities. I recall that last year you expressed concern that this level of funding may not be adequate.

Is this level of funding sufficient for the Service to carry out its 1988 campaign-related protective responsibilities in this fiscal year, or are you draining your other resources to perform your required candidate protection duties?

Mr. Simpson: Our FY-88 campaign funding in the amount of $29.9 million was based on the cost of the FY-84 portion of the 1984 Presidential Campaign along with an anticipated early start up in January, 1988, for protective requirements of this Service. In fact, this protection began in November, 1987, with the assumption of protection for candidate Jackson and in December, 1987, for candidate Robertson.

Although the number of candidates who qualified for protection did not reach expected levels, those who we were tasked to protect have campaigned extensively. As a result of lesser numbers of candidates to protect and through very careful management of our resources and personnel, we feel that the appropriated campaign funding will be sufficient without a supplemental request.

Senator Domenici: How many Other Treasury Agents (OTA's) are being detailed to the Service to assist it in providing candidate protection? Could you please be specific as to the number of personnel from each Treasury agency being utilized in each of fiscal years

1988 and 1989. Are all of these detailees being provided on a fully reimbursable basis?

What is the amount of funding required to reimburse these other Treasury bureaus for the use of their personnel in each of fiscal years 1988 and 1989?

Mr. Simpson: In preparation for the ongoing Presidential Campaign, the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service and the Customs Service committed 2,250 Special Agents for specialized campaign training by the Secret Service. For a variety of reasons involving the operational requirements of the agencies involved, only 1,863 of these were actually trained for campaign support.

The breakdown by agency of personnel trained is as follows:

BUREAU OF ATF	- 654
INTERNAL REVENUE SERVICE	- 551
CUSTOMS	- 658

After completion of training, the personnel from these support agencies will augment Secret Service agents in a variety of protective assignments.

Due to the constantly changing support requirements of this campaign, we are unable to specify the exact number utilized thus far, as many are used on multiple occasions.

With regard to reimbursable costs, these agencies supporting our campaign effort are reimbursed for payroll expenses, beyond normal salaries, shown to be directly connected with providing protective support. These expenses include night differential payments, overtime, Sunday pay and holiday pay. Additionally, reimbursement is made for all per diem and travel related costs, including those incurred while in training for campaign assignments.

There is no distinction in amounts budgeted for OTA's and USSS Agents, since the hours to be worked by each were not known at the time the budget was prepared.

The actual costs of OTA's for the 1988 Presidential Election will be calculated as the costs are received. This information will be reported to your office via the semi-annual report required by Public Law 94-524.

Senator Domenici: What funding will be necessary for the Service to provide security at the Republican and Democratic 1988 Presidential Conventions?

Mr. Simpson: The approved funding for the FY-88 portion of the 1988 Presidential Campaign includes $1,720,000 for our protective activities at the Republican and Democratic National Conventions. This figure is formulated on previous expenses incurred in connection with our security activities at similar conventions as well as anticipated inflationary and other costs associated with the 1988 convention activities.

Senator Domenici: Last year, the Secret Service estimated that $6.5 million was necessary to complete the remainder of the revised Master plan for development of the Rowley Training Center. This was to include Projects II (Perimeter Road Network) and V (Physical Training Building) of the Plan. Due to budget constraints, the Fiscal Year 1988 appropriation provided only $5 million of the $6.5 million needed for completion of the Rowley Training Center. Which elements of the revised Master Plan will you be unable to complete given the fact that the funding provided was $1.5 million short of the amount necessary to complete the Center?

Is $1.5 million still your estimate of the funding needed to complete the development of Rowley under the revised Master Plan?

Mr. Simpson: We will be unable to complete several elements of each phase due to a total shortfall of $2.5 million. This includes the $1.5 million reduction to our original request of $6.5 million in Fiscal Year 1988, which covers all phases of development. Under Phase I (Construction '86), we could not complete the vehicle storage building, drainage of a low area (approximately 41 acres), and improvements to the existing storm water retention pond. Significant portions of the Perimeter Road Network (Protective Driver Training Roads) under Phase II (Construction '88) would not be finished. We only have an estimate of the costs of the Tactical Response Training area, Phase III (Construction '87), which would have to be deleted. These segments have not been defined yet and will be identified during contract negotiations.

A total of $2.5 million is necessary to complete the revised Master Plan. This amount includes a $1.5 million reduction to our initial request in Fiscal Year 1988. Our Fiscal Year 1987 Small Business Administration construction contract (minority firm) for Phase III is short an estimated $785,000 due to escalating construction costs in the Washington area. Any further reductions to the scope of work will impact severely on the integrity of this phase. In Fiscal Year 1986, our $5 million appropriation for Rowley was reduced by $215,000 as a result of Gramm-Rudman-Hollings. All of these factors compose the total shortfall of approximately $2.5 million.

Senator Domenici: What is the current construction schedule for all work now underway at the Rowley Training Center?

Mr. Simpson: A timetable for all phases of the revised Master Plan follows:

Construction Timetable

October, 1987 - Construction began on Phases I and IV. (Security and Computer Building, Protective Driver Training Course, Water Tower)

March, 1988 - Final plans completed for Phase III. (Tactical Response Training area, Observation Tower)

July, 1988 - Contract may be awarded for Phase III. Final plans completed for Phases II and V. (Perimeter Road Network, Physical Training Building)

December, 1988 - Completion of Phases I and IV expected.

Spring, 1989 - Contract may be awarded for Phases II and IV.

Senator Domenici: How much of the $5 million appropriated for Fiscal Year 1988 do you estimate will be obligated by the end of the Fiscal Year? By what date do you project to obligate all of these funds?

Mr. Simpson: The Secret Service expects to obligate through GSA all of the $5 million appropriated for Fiscal Year 1988 by the end of the Fiscal Year. At this point, we cannot project a specific date by which we will obligate these funds.

Senator Domenici: On February 28 of this year, OMB used the authority provided in Fiscal Year 1988 Further Continuing Appropriations Act to provide special pay rates for various federal law enforcement officers, including the Uniformed Division of the Secret Service.

What additional funds are required in each of Fiscal Years 1988 and 1989 for these special rate pay increases?

Mr. Simpson: The funds required for the Uniformed Division special rate pay increases are:

FY 1988	$2,493,278
FY 1989	$4,340,666

Senator Domenici: You mention in your testimony that a rise in foreign dignitary visits are expected in Fiscal Year 1989. How much is included in your budget request for this purpose?

Mr. Simpson: The Service has not requested additional funding in the FY 89 budget request for foreign dignitary protection. We plan to absorb any additional costs from our base funding and, if necessary, to delay program enhancements in order to meet them.

Senator Domenici: You mention in your statement that case receipts for direct deposit fraud increased by 113 percent in Fiscal Year 1987. Is that an increase over the previous fiscal year? Are similar increases projected in Fiscal Year 1988 and 1989 case receipts?

Mr. Simpson: Yes, the 113 percent increase in Fiscal Year 1987 represents an increase over Fiscal Year 1986.

Each year more citizens opt to have their recurring Federal payments deposited directly into their personal accounts by electronic funds transfers. These payments include Social Security, veteran's benefits, Civil Service annuities and now Income Tax refunds. As the level of payments rises, we except a corresponding rise in the number of alleged frauds reported to the Secret Service.

Senator Domenici: What funding is needed for technical security enhancements to former Presidents' residences and to the residences of the new President and Vice President in each of Fiscal Years 1988 and 1989?

Mr. Simpson:

In FY 1988:

- **$450,000 is being expended for intrusion detection equipment and video surveillance equipment at President Reagan's retirement residence in Bel Air, California -- $200,000 for equipment and $250,000 for installation. An additional $90,000 is being spent on guard booths and a command post at the residence.**
- **$215,000 is being expended for technical security enhancements and upgrades at former President Carter's residence.**

In FY 1989:

- **$1,000,000 has been requested in the FY 1989 budget for intrusion detection and video surveillance** equipment and installation at three residences -- secondary residences for the new President and Vice President and completion of President Reagan's retirement residence. A breakdown of these expenditures is approximately $600,000 for equipment and $400,000 for installation.

Senator Domenici: You mention in your budget justification that an additional 117 average positions are requested in Fiscal Year 1989 to provide a permanent emergency response team, to enhance the Counter Sniper program, to provide more protection for the Treasury Annex and a number of other purposes.

Would you please provide for the record the specific number of positions being requested in Fiscal Year 1989 for each of these purposes.

Mr. Simpson: For the record, we ask that a response specifying further clarification of how these positions are distributed be provided in a different forum because of the sensitivity of our protective mission.

Senator Domenici: Of the 4,468 average positions requested for Fiscal Year 1989, how many are Uniformed Division positions and how many are to carry out the Service's investigative responsibilities?

Mr. Simpson: Of the average positions requested, 1,127 are for our Uniformed Division. The remainder are in support of the investigative and other protective missions of this service. It is difficult, if not impossible, to specifically identify investigative vs. protective personnel. Virtually all of our agents assigned in field offices and headquarters divisions are called on to support our various protective missions. The current ongoing campaign is a good example with the detail staffing being from "non-protective" divisions. Likewise, these personnel support the protection of the President, the Vice President, foreign dignitaries and all other protectees. The extent of this support varies and is dependant on the particular requirements of a specific activity.

Senator Domenici: Would you please update us on where you are in your effort to consolidate your headquarters operations.

Mr. Simpson: The present status of the U. S. Secret Service effort to consolidate our Headquarters operations is as follows:

PROSPECTUS

The General Services Administration (GSA) has submitted a Prospectus to the Office of Management and

Budget (OMB) for their consideration and review. The prospectus proposes a new lease for 42,600 occupiable square feet of space for the U. S. Secret Service at 1800 G Street, N.W., Washington, D.C. This represents the first step towards total consolidation. The final and total consolidation is dependent upon the move of NSF from 1800 G Street.

The prospectus delineates the reasons for the USSS request for the space at 1800 G Street location; the reasons for the additional space; and the pertinent information pertaining to the availability of space at 1800 G. Street, N.W.

We are waiting for OMB to approve this Prospectus and forward it to the Congress for consideration.

Senator Domenici: Your fiscal year 1989 request includes $591,000 for consulting and related services. You mention that $16,000 will be obligated to retain the Behavioral Research consultants and $275,000 will be obligated to pursue their recommendations. How many consultants are being retained? What is meant by "pursuing their recommendations"?

Mr. Simpson: The Secret Service retains two Ph.D consultants on a part-time basis at an annual cost of $16,000.

"Pursuing their recommendations" does not refer to the advice of these consultants solely, but rather it refers to the advice of the consultants in conjunction with Secret Service management in the Intelligence Division in:

- identifying behavioral research projects,
- procuring expert and creditable researchers outside the Secret Service, and
- assisting in monitoring the progress of such research.

The Intelligence Division has established a Behavioral Research Committee to target projects, and the consultants are members of that committee.

Senator Domenici: Does the Secret Service currently have an employee/applicant drug testing program? If so, how many employees/applicants are being tested in Fiscal Year 1988 and what is the cost of this testing program?

Mr. Simpson: At the present time, applicant tests are projected to begin by 7/1/88. The last quarter of FY 88 (July-August-September) should include an estimated 125 applicant tests, at an estimated cost of

$6,590. No tests are anticipated under the Random Selection method of testing until 10/1/88.

Two (2) employee tests have been conducted under Reasonable Suspicion Testing. The costs related to these tests totals approximately $200.

What are the anticipated costs for the drug testing programs?

Costs related to the operation of the USSS Drug Testing program on an annual basis include:

Random Selection Tests - 1,500 (collection and analysis) -	$ 79,095
Applicant Tests - 500 (approximate) (collection & analysis) -	$ 26,365
Employee Costs for Program Management -	$ 50,182
Quality Control Sample Costs (purchase and tests) -	$ 16,137
	$171,779

How much is the USSS currently spending on drug testing?

Employee costs for program management -	$16,605
Equipment allocation (computer) -	5,000
Probable cause testing -	500
Start-up costs (training & travel) -	2,000
	$24,105

The total of $24,105 represents drug program start-up costs during Fiscal Year 1988.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

STATEMENT OF DR. DON W. WILSON, ARCHIVIST OF THE UNITED STATES

ACCOMPANIED BY:

CLAUDINE J. WEIHER, DEPUTY ARCHIVIST OF THE UNITED STATES
JAMES C. MEGRONIGLE, ASSISTANT ARCHIVIST FOR MANAGEMENT AND ADMINISTRATION

INTRODUCTION OF ASSOCIATES

Senator DeConcini. Our next witness is going to be Dr. Don Wilson, Archivist of the United States, to testify on his budget.

You may proceed.

Dr. Wilson. Thank you, Mr. Chairman.

I am Don Wilson, the recently appointed Archivist of the United States, and with me is Claudine Weiher, Deputy Archivist of the United States, and James Megronigle, Assistant Archivist for Management and Administration.

I submitted a formal statement for the record, but with your permission I would like to summarize it.

Senator DeConcini. If you would please.

Dr. Wilson. With your further permission, we would like to give a short audio-visual presentation after I summarize my budget submission.

FISCAL YEAR 1989 BUDGET REQUEST

First, let me briefly state the overall budget figures for fiscal year 1989 and mention two program increases that are reflected in the budget submission.

Our request of $117.9 million is a net increase of $1.9 million over the fiscal year 1988 appropriation of $116 million. The details are reflected in my formal statement.

Basically, other than increases for the Reagan Library and moving the New York field archives branch, the fiscal year 1989 budget is really a continuation of fiscal year 1988 with an attempt to recoup some of the losses that we have had in personnel, equipment, and supplies in order to fund the grants program in fiscal years 1987–88.

Specifically, the request for Reagan Library funds is for the acquisition, transportation, storage, preservation, and processing of the Reagan Presidential documents and materials for research use at the future Reagan Library in California. In fiscal year 1989, approximately 50,000 cubic feet of Presidential materials will be surveyed, sorted, labeled, and shipped to a temporary location in southern California. This is the responsibility of the National Archives.

Funds are also included in our fiscal year 1989 request to relocate our New York field archives branch from the Military Ocean Terminal in Bayonne, NJ, to a more suitable location in the New York metropolitan area.

My last topic is Archives II. Although no funding is actually requested in this budget, I would like to take this opportunity to share with the committee members a progress report and the status of the $6 million in design funds provided as part of our fiscal year 1988 budget. As I have testified on several occasions in the last 6 months, one of my major objectives as Archivist is to try to solve the Archives critical space needs for program and storage.

The National Archives Building had reached its storage capacity in the late 1960's. Since that time over 500,000 cubic feet of archival material has been diverted to federally owned or leased buildings throughout the Washington, DC, area. Consequently, some of our Nation's most historically valuable records are currently stored in space which is not designed to provide the environmental conditions necessary to preserve the life of these important documents.

Thanks to the efforts of this committee, $6 million was provided in fiscal year 1988 for a design contract for the new Archives facility. I am happy to report that a preliminary design study was just completed in January of this year. It identifies the National Archives program requirements, documents functional relationships, and recommends the configuration of a building that meets the National Archives' special needs.

The new building is expected to meet the National Archives' requirements well into the 21st century. It will provide state-of-the-art storage conditions, provide space for archival storage, archival processing, research, reference, laboratories, and other facilities.

I hope that, with the support of Congress, Archives II can be accomplished early in my tenure as Archivist.

SLIDE PRESENTATION—ARCHIVES II

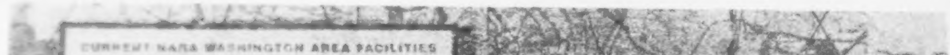
Now, I would like to briefly review the program and space needs of the National Archives.

I will ask Jim Megronigle, Assistant Archivist for Management and Administration, to narrate and describe the slides that you will be seeing.

Mr. MEGRONIGLE. Thank you, Dr. Wilson.

Mr. Chairman, with your permission, I would like to dim the lights in the room.

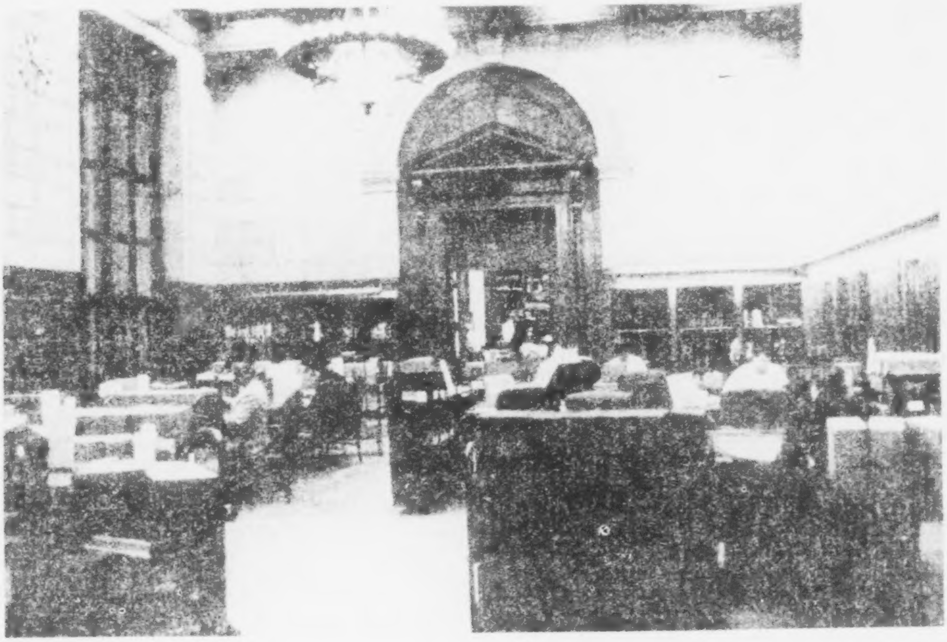
The National Archives Building.


CURRENT NARA WASHINGTON AREA FACILITIES
Predominant User
Records Storage
Offices
General Storage
RIDDELL BLDG.
1100 L STREET
BICENTENNIAL BLDG.
RECORDS CENTER ANNEX
PATRICK HENRY BLDG.
OLD POST OFFICE
NATIONAL ARCHIVES BLDG.
NAVY YARD ANNEX
NATIONAL AUDIOVISUAL CENTER
P STREET
WASHINGTON NATIONAL RECORDS CENTER
PICKETT STREET

Sites of current NARA Metropolitan Washington, DC, facilities.

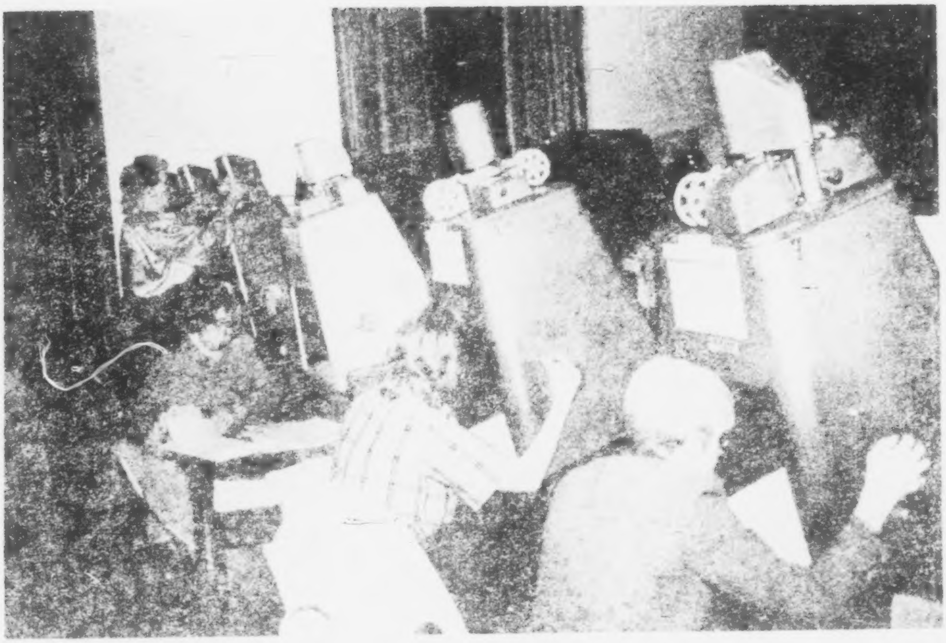
Mr. Chairman, Senator, the National Archives Building reached its storage capacity in the late 1960's. Since that time we have had to relocate to 12 facilities around the Washington metropolitan area.

We have both records and staff members in these facilities making it very difficult to operate. We have not been able to provide the necessary temperature and humidity controls.



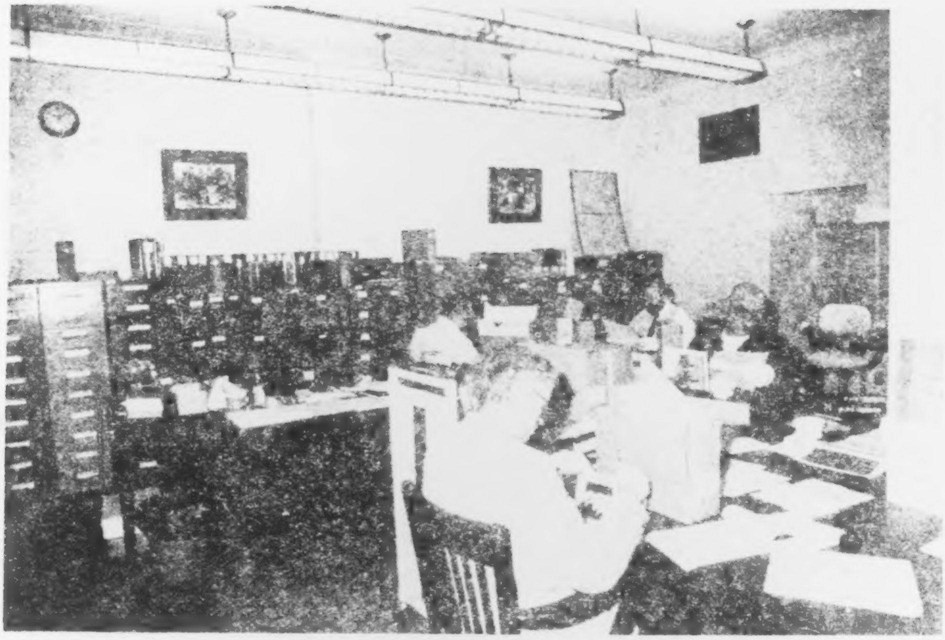
Central research room, National Archives Building.

The Archives building still remains our best facility, however, it too has its problems. We have 100,000 research visits a year, and our main research room only accommodates 70 people.



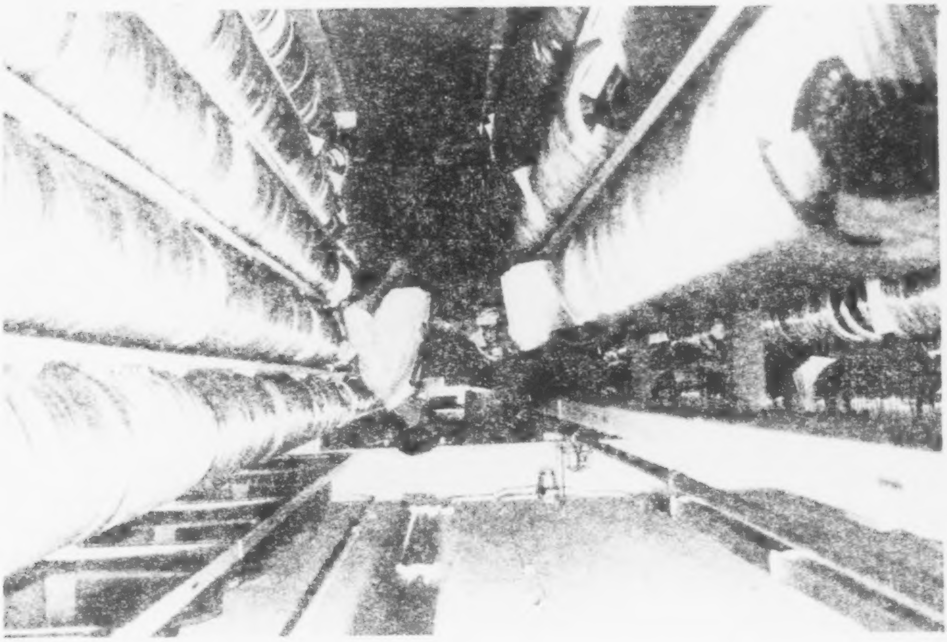
Microfilm reading room, National Archives Building.

Motion picture research room, National Archives Building.



Still picture research room, National Archives Building.

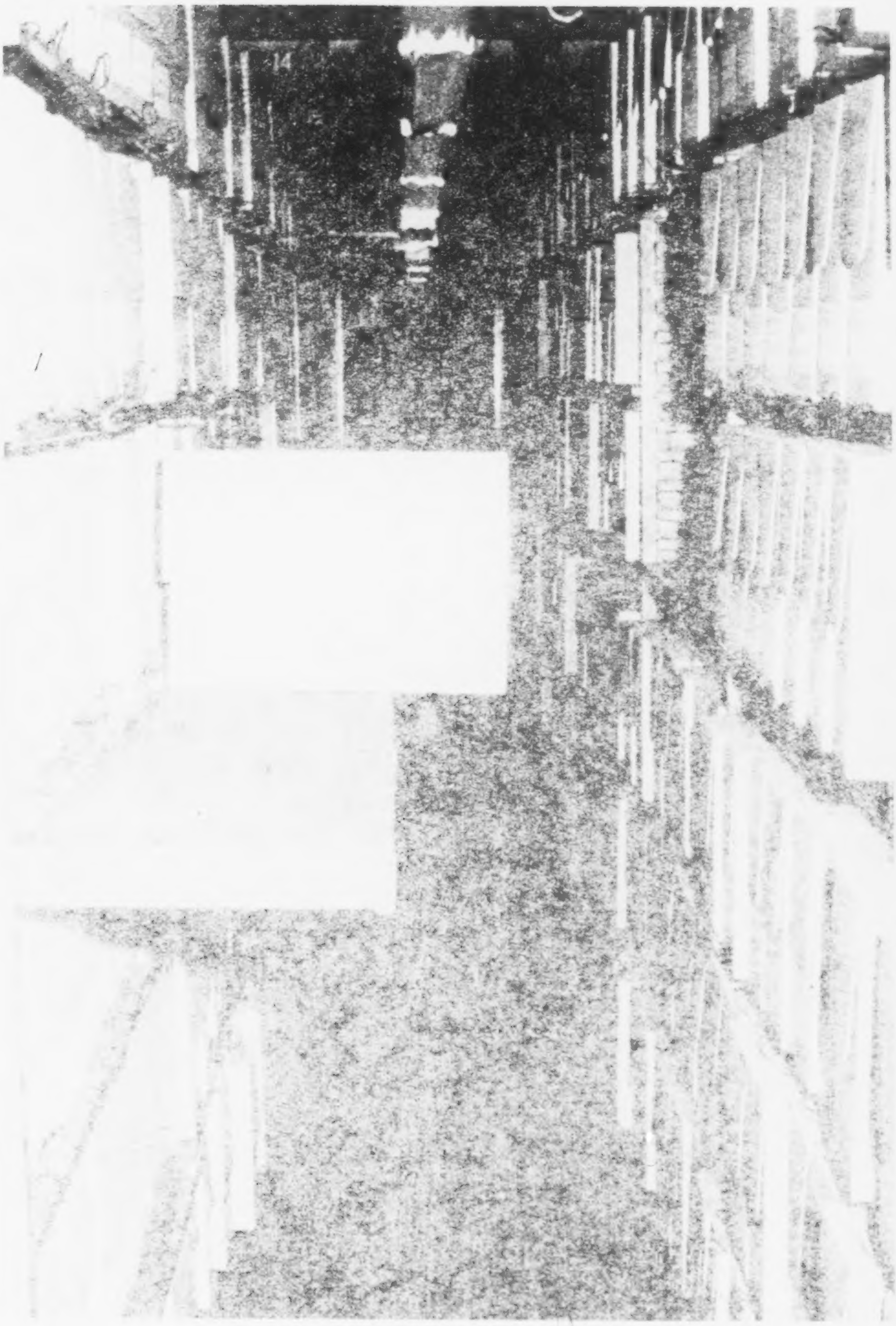
Researchers using microfilm, motion picture, sound and video materials, still pictures, or computer records have to go to different locations throughout the facility.



Machine-readable tape storage vault, National Archives Building.

Textual records storage area with no major physical defects, National Archives Building.

This is a typical storage area. The problem with these storage areas is that we cannot put in the modern air distribution systems that provide the proper temperature and humidity controls.

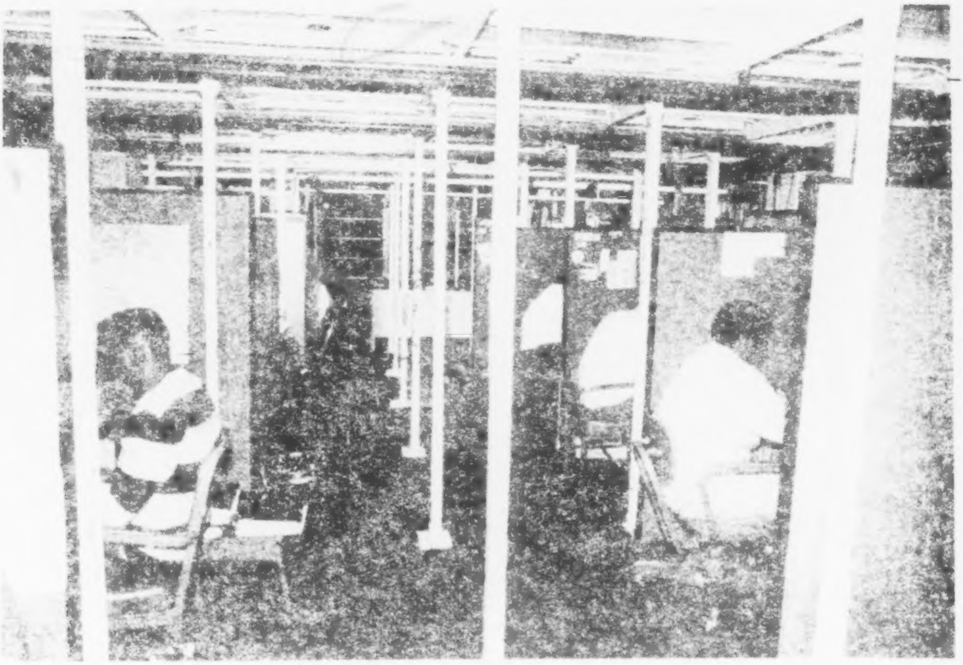


Original shelving, National Archives Building.

Inappropriate storage facilities for posters, National Archives Building.

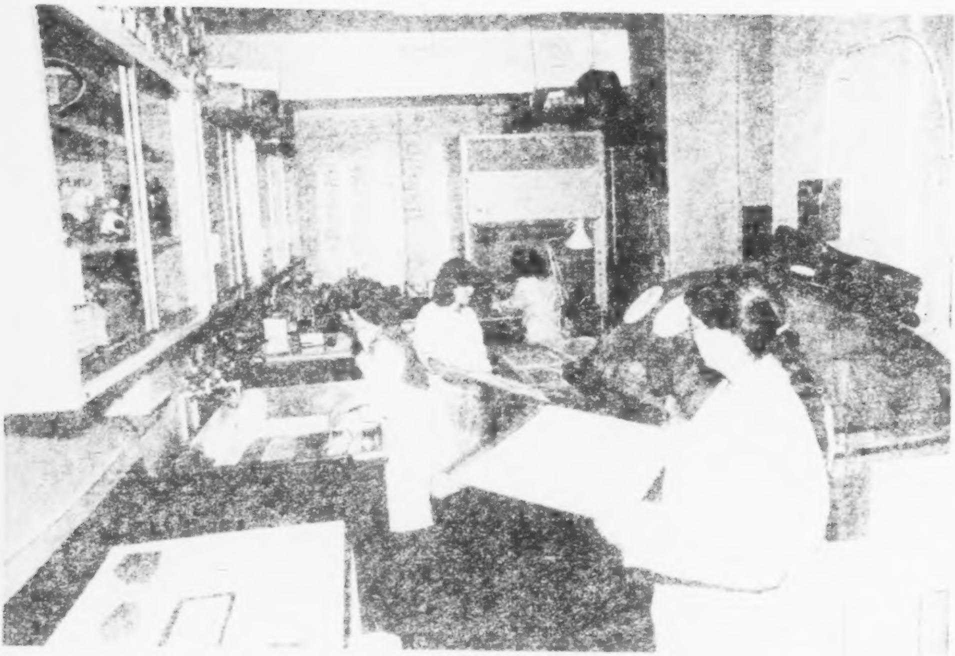
Many areas of the building are extremely cramped, narrow aisles with very small workspace. Other areas probably should be vacant due to the limited space.

Work station in textual records storage area, National Archives Building.

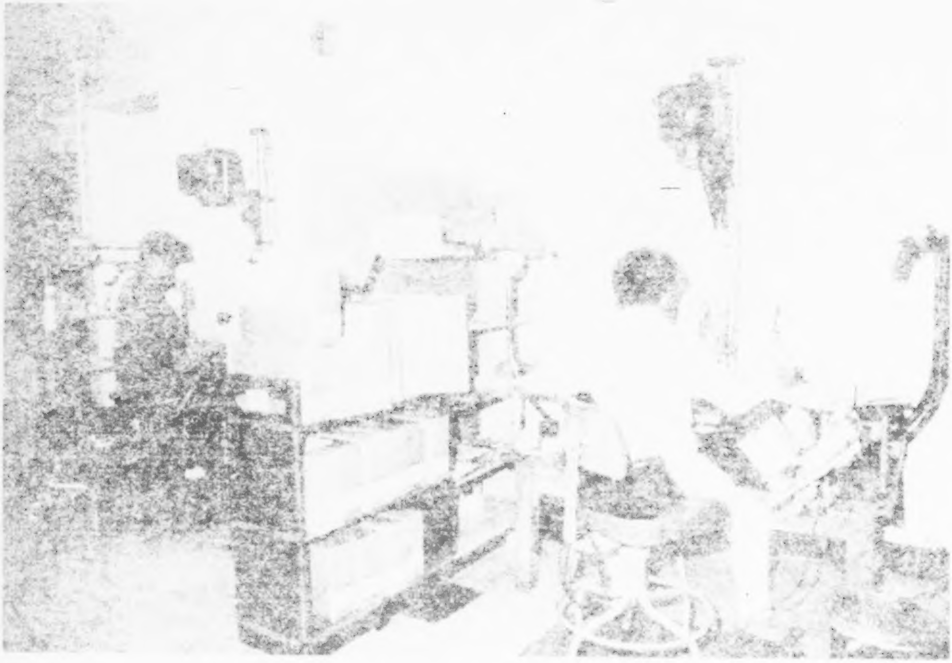


Work stations in converted textual records storage area, National Archives Building.

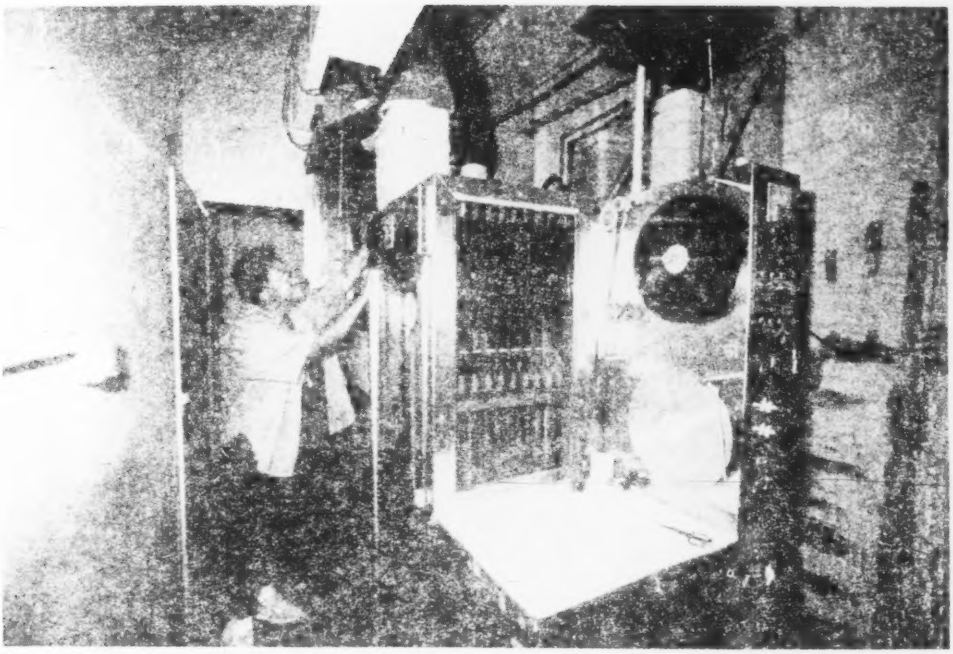
Employees' work stations are located in these areas. We have also removed shelving to provide more office space.



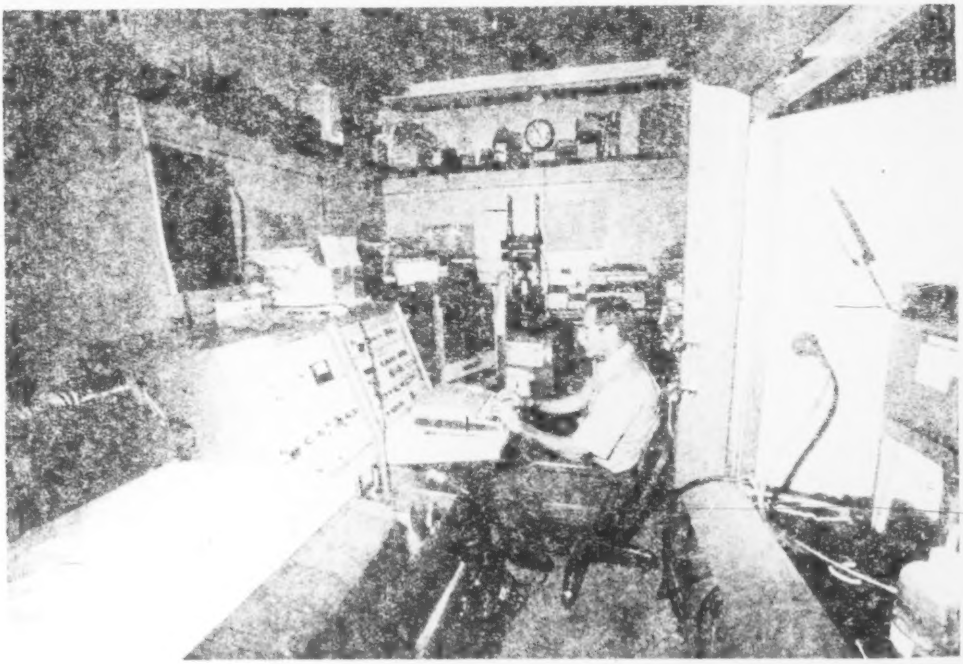
Document conservation laboratory, National Archives Building.



Microfilming archival records, National Archives Building.



High-speed microfilm developing machine, National Archives Building.



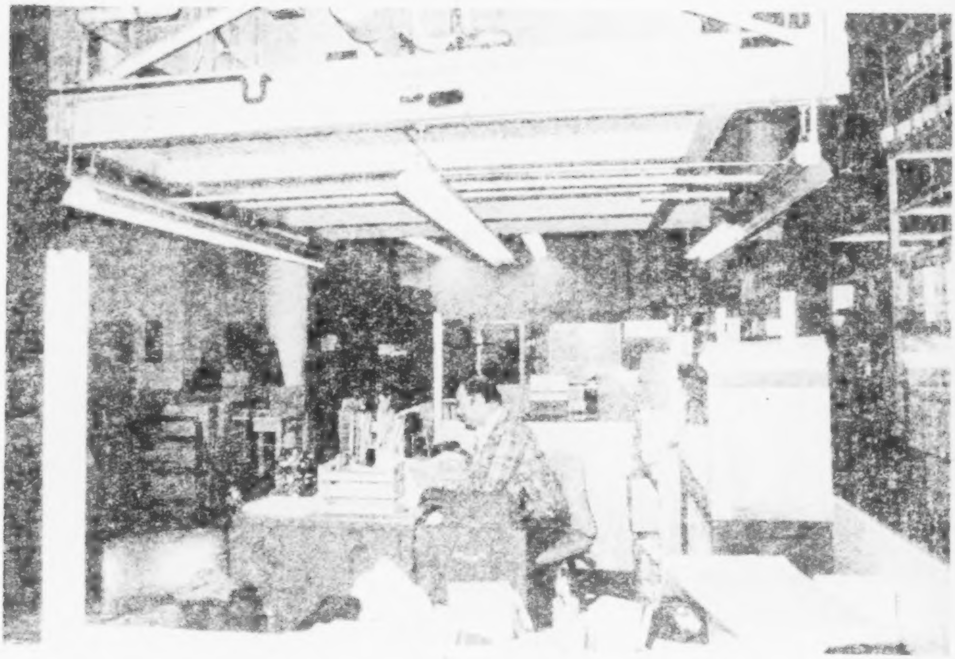
Mass spectrometer in chemistry laboratory, National Archives Building.

Our laboratory in the basement is very cramped. There are very few areas in the building that provide space for these tall microfilm cameras requiring high ceilings. The microfilm processing rooms in the subbasement for the film are also quite cramped. The chemistry laboratory is located adjacent to the snack bar.

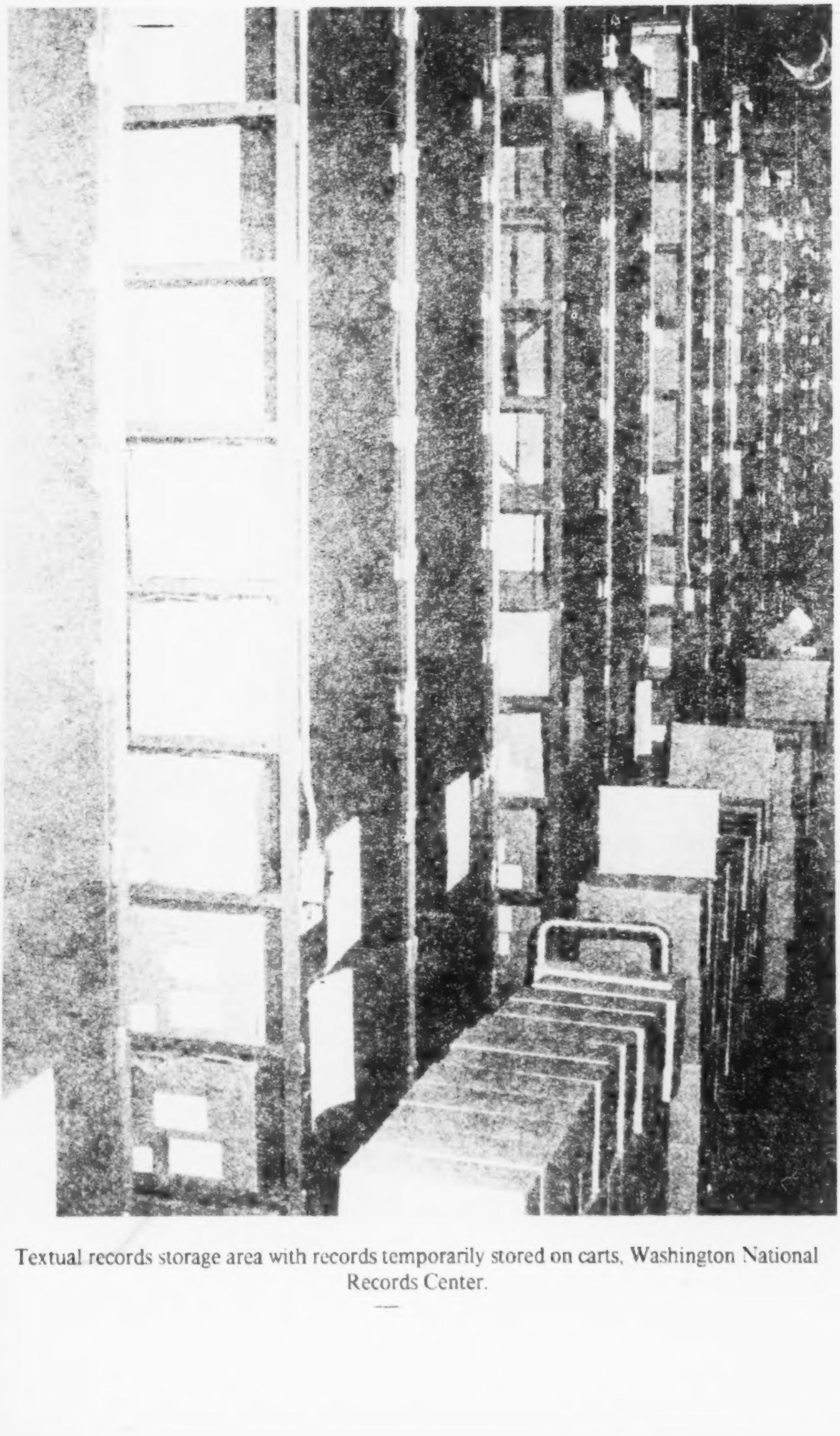
WASHINGTON NATIONAL RECORDS CENTER

Washington National Records Center Building, Suitland, MD.

The temporary solution since 1970 has been to put records into the Washington National Records Center which is not designed as an archives.



Work stations in textual records storage area, Washington National Records Center.



Textual records storage area with records temporarily stored on carts, Washington National Records Center.

Working conditions in textual records storage area, Washington National Records Center.

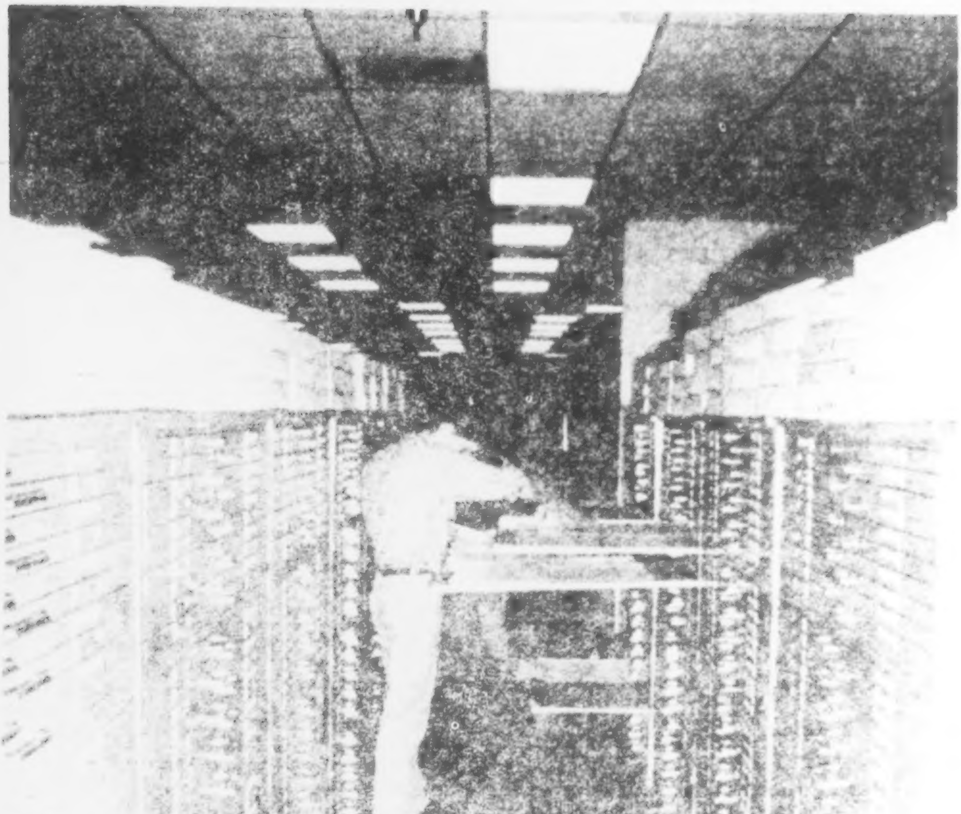
Working conditions in textual records storage area, Washington National Records Center

The Record Center has very large storage areas which are difficult to air condition. The tall shelving makes it necessary to use large ladders in order to reach the top. Also, since there is little workspace, employees have to resort to sitting on the floor.

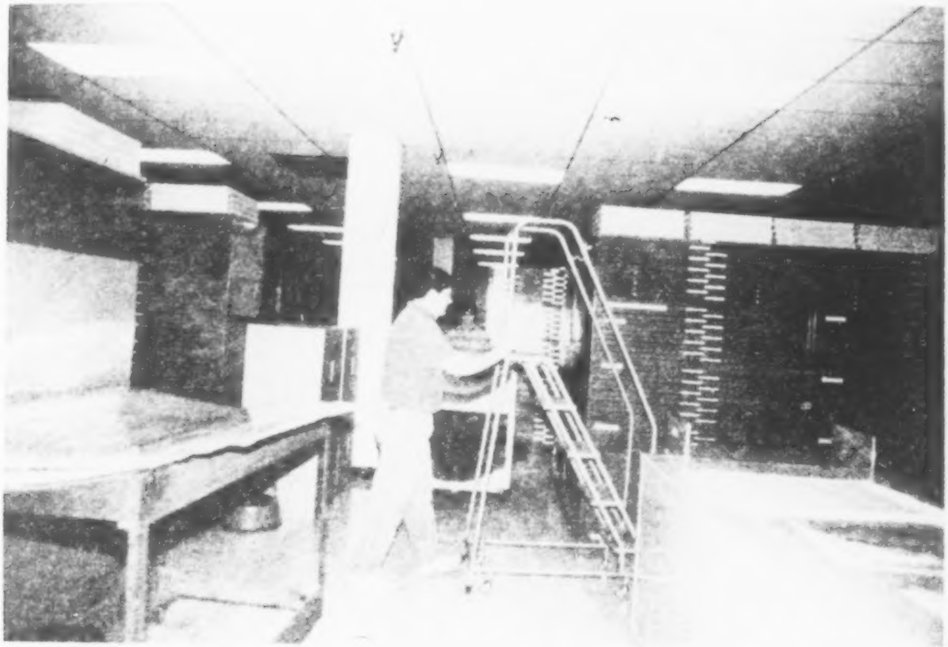
National Archives
and
Records Administration
841-881 S. Pickett Street

Pickett Street facility, Alexandria, VA.

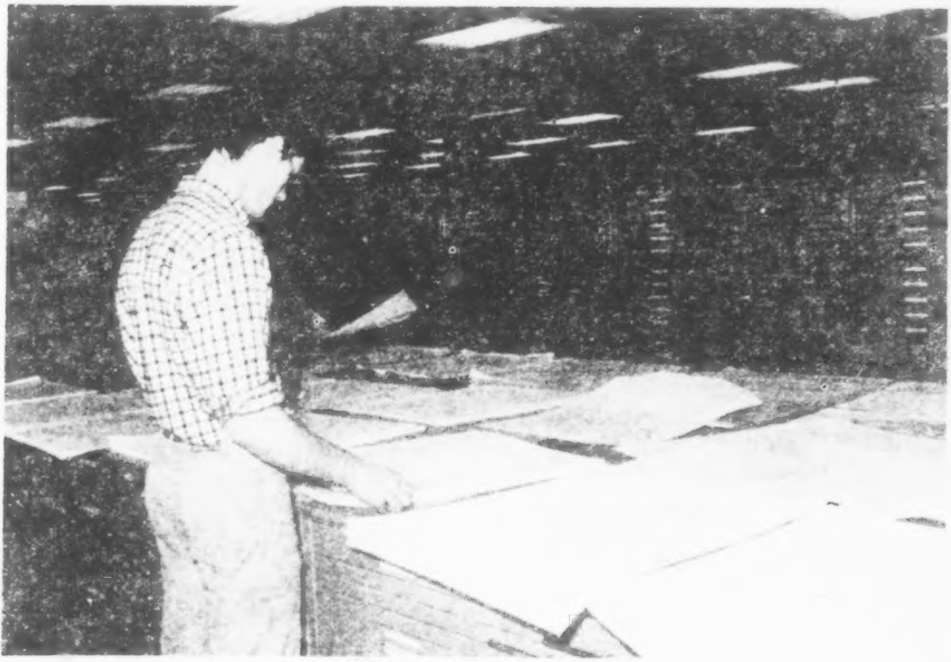
In 1982, we had to relocate some of our functions to Pickett Street in Alexandria. This is a building that had been vacated by the Library of Congress' Map Division when they moved into the Madison Building.



Cartographic and architectural records storage area, Pickett Street facility

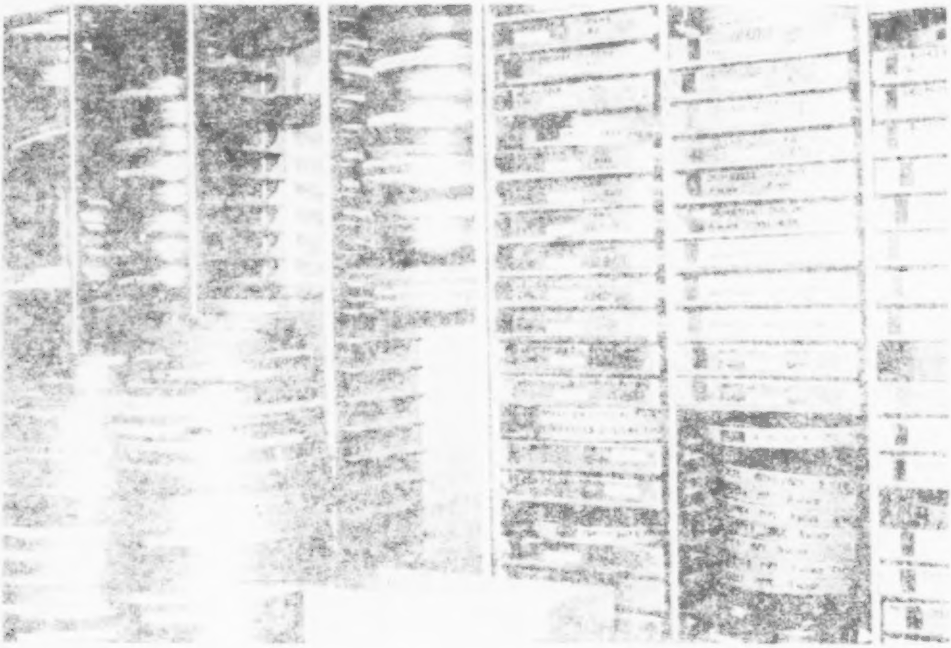


Cartographic and architectural records storage and work area, Pickett Street facility.

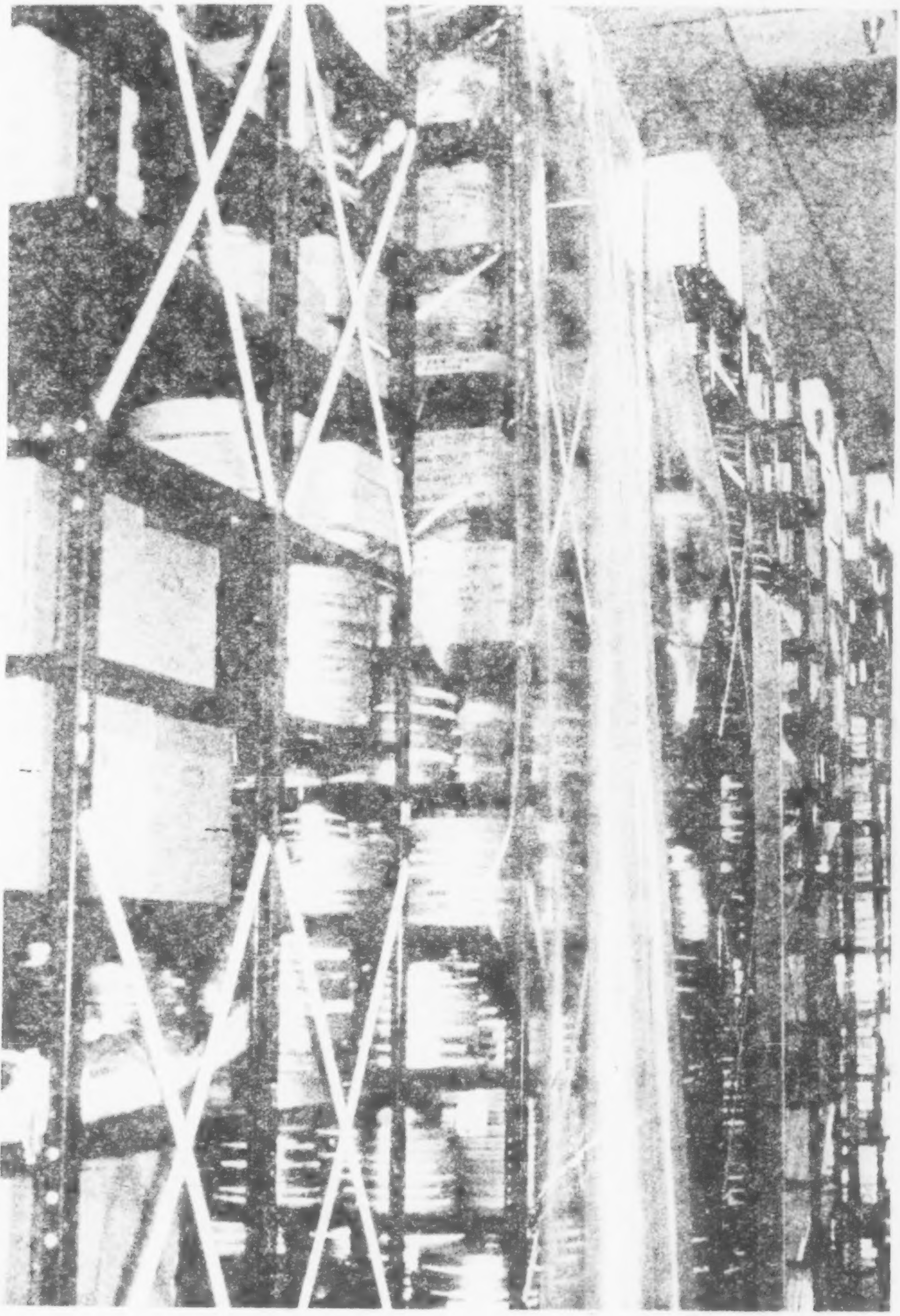


Work area on cartographic records storage cases, Pickett Street facility.

Our cartographic staff has to stack map cabinets five cases high although it should be much lower. We use ladders to get to the top drawers and there are very few places where the cases are at a low enough level to be used as processing areas.

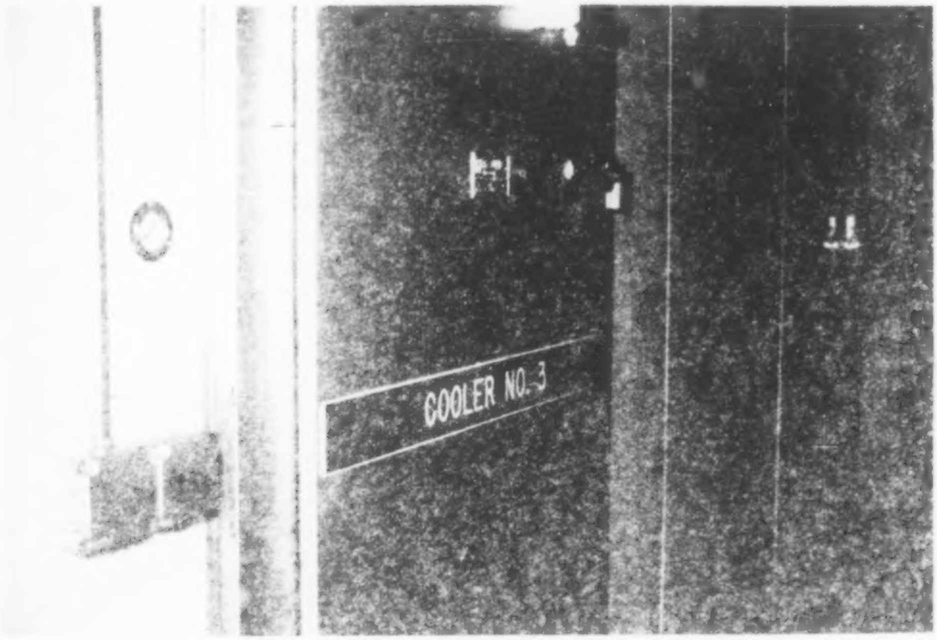


Horizontal slotted shelving for motion picture film, Pickett Street facility



Motion picture film on open shelving with drop cloth protection against leaking ceiling, Pickett Street facility.

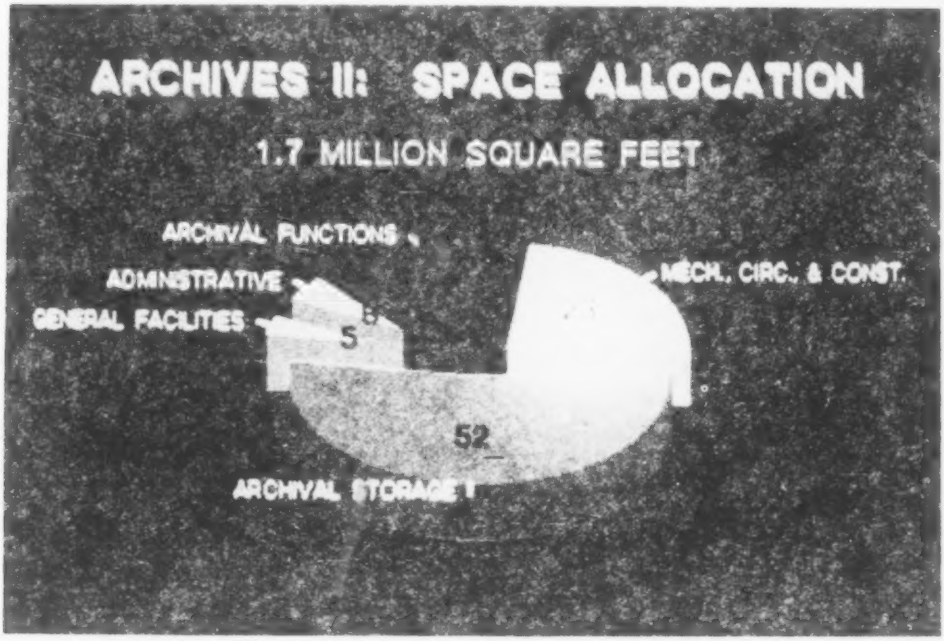
In the motion picture section, this is the way 35 millimeter film should be stored. We have to stack it on open shelving. There is a very bad roof at this location, and we have to keep plastic in place for protection from leakage.



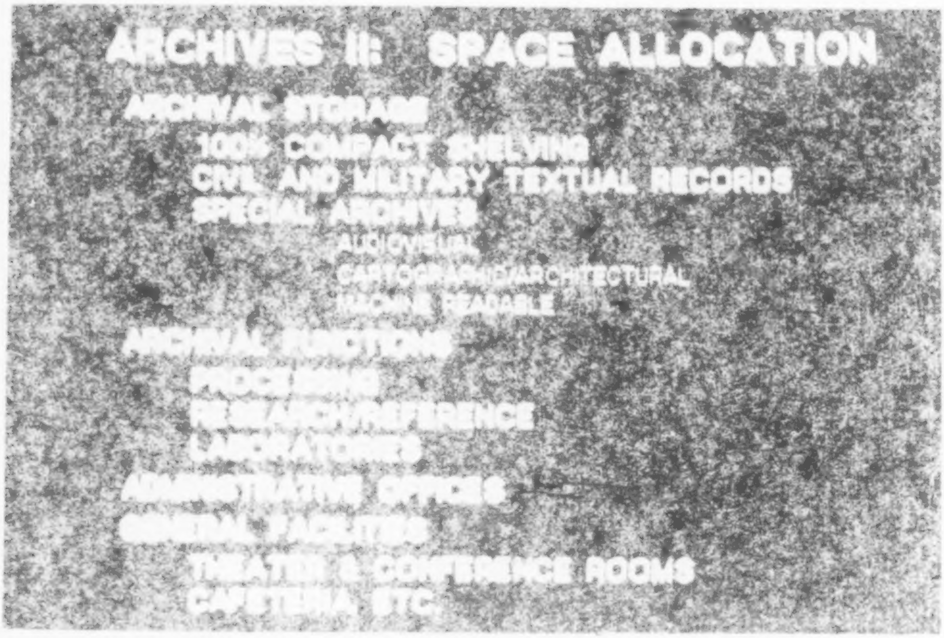
Color negative film storage cooler No. 3, Pickett Street facility.

Color negative film in storage cooler, Pickett Street facility.

In order to provide proper temperatures for motion picture film, we have three large refrigeration units that we have constructed to maintain a temperature of 35 °F.



Proposed space allocation, Archives II Building.

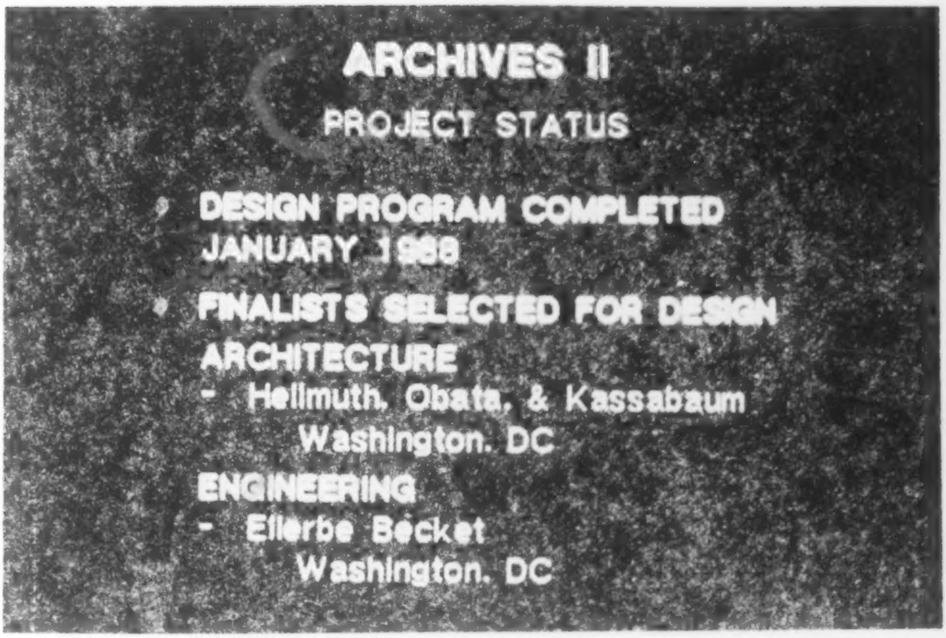


ARCHIVES II: SPACE ALLOCATION

- ARCHIVAL STORAGE
  - 100% COMPACT SHELVING
  - CIVIL AND MILITARY TEXTUAL RECORDS
  - SPECIAL ARCHIVES
    - AUDIOVISUAL
    - CARTOGRAPHIC/ARCHITECTURAL
    - MACHINE READABLE
- ARCHIVAL FUNCTIONS
  - PROCESSING
  - RESEARCH/REFERENCE
  - LABORATORIES
- ADMINISTRATIVE OFFICES
- GENERAL FACILITIES
  - THEATER & CONFERENCE ROOMS
  - CAFETERIA, ETC.

Proposed space allocation, Archives II Building

The solution is a new building of 1.7 million square feet. We would use compact shelving which would maximize the use of space. All of our special archives will be located there—architectural, cartographic, and machine readable computer records.

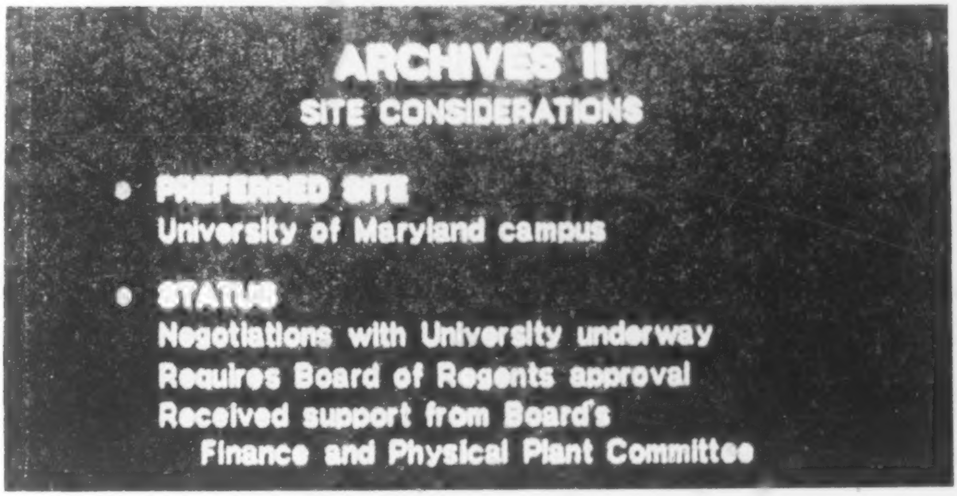


ARCHIVES II

PROJECT STATUS

- DESIGN PROGRAM COMPLETED JANUARY 1988
- FINALISTS SELECTED FOR DESIGN
  ARCHITECTURE
  - Hellmuth, Obata, & Kassabaum
    Washington, DC
  ENGINEERING
  - Ellerbe Becket
    Washington, DC

Archives II Building project status: Selection of architects



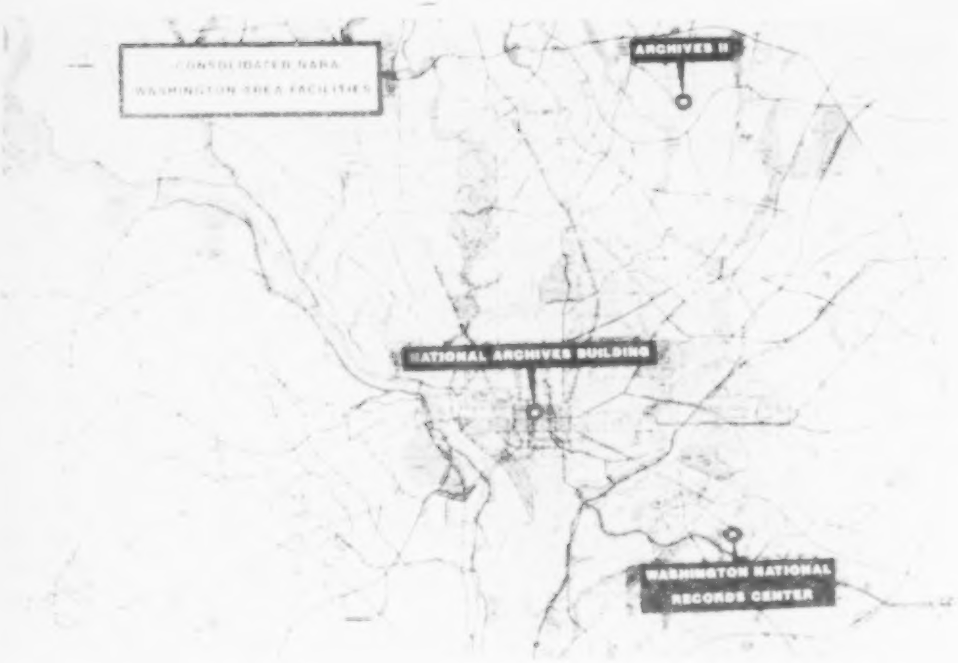
ARCHIVES II

SITE CONSIDERATIONS

- PREFERRED SITE
  University of Maryland campus
- STATUS
  Negotiations with University underway
  Requires Board of Regents approval
  Received support from Board's
  Finance and Physical Plant Committee

Archives II Building: Site considerations.

We will have the research space to accommodate the people coming to the Washington area. With the design program completed, we selected the architectural firm of Hellmuth, Obata & Kassabaum, and the engineering firm of Ellerbe Becket to begin the building design this summer.



Sites of NARA Metropolitan Washington, DC, facilities after completion of Archives II Building

Our preferred site is a location on the northwest corner of the University of Maryland campus. The University of Maryland has been very generous in indicating a willingness to donate this site to the Federal Government for this facility. We would very much like to have it there. Negotiations are underway and we expect them to conclude shortly.

What we want to achieve, Mr. Chairman and Senator, is to change the map of Washington for the National Archives from 12 locations to 3 by about 1994.

I appreciate the committee's indulgence.

Dr. Wilson. I would like to make one final point by way of demonstrating how far behind our National Archives really is, Mr. Chairman. Several States and almost a dozen western European nations have completed new archival facilities in recent years. In every case, these new facilities have state-of-the-art facilities, conservation laboratories, audio-visual production areas, and energy efficient operations.

The British had a similar situation to the United States. Their archival facilities were spread around the greater London area until they built the public records office at Kew. Now they are able to concentrate their operation in two facilities, the original records office in downtown London and the other at Kew, 12 miles outside of London, but accessible by the underground.

With this committee's support, we would like to implement the same approach by building the Archives II at the University of Maryland site, only we will take the British experience and try to improve on it, as it is our tradition.

The point I would like to make is that our U.S. Government is now 200 years old and the most powerful democracy in the world. We should be vitally concerned about preserving and documenting its history and its policies for future generations.

The inscription on the side of the Archives building says: "This building holds in trust the records of our national life and symbolizes our faith in the permanency of our national institutions."

Our National Archives needs additional space to carry out its important mission. The existing building has long since been outmoded and is overflowing. It has left the U.S. Government far behind in its ability to preserve and maintain our country's valuable and historical records.

PREPARED STATEMENT

We appreciate the committee's support and thank you for your efforts to rectify this problem.

I will be happy to answer questions.

[The statement follows:]

STATEMENT OF DON W. WILSON

Mr. Chairman and members of the Committee, I am Don Wilson, newly appointed Archivist of the United States, and I am pleased to have this opportunity to appear before the Committee for the first time to present the National Archives and Records Administration (NARA) FY 1989 appropriation request. I have with me today Claudine Weiher, Deputy Archivist, and James Megronigle, Assistant Archivist for Management and Administration.

As NARA nears its third anniversary as an independent agency, its continuing primary activity is to preserve the Nation's cultural heritage and make available the documentary record of our national Government. To accomplish this, NARA is responsible for the management, appraisal, and disposition of all Federal records and for the preservation, description, arrangement and availability of those records of permanent value.

Throughout the country in 11 field Archives Branches, and here in the National Archives building and several other locations in Washington, we carry out these archival functions and make the Nation's records of enduring value available for research by the Federal Government, scholars, and the general public.

One of NARA's latest and most significant acquisitions is the Vietnam War records which were being held by the U.S. Army until they were turned over to the Archives in FY 1987. Through the efforts of this Committee, NARA received supplemental funding in FY 1987 to begin processing these records. These resources are being used to process and declassify 30,000 cubic feet of important military records from the Vietnam War. Continuation of funding is necessary in FY 1989 for NARA to further process, declassify, and make available for research the remainder of these historic records.

Our FY 1989 request also includes funds to relocate the New York Field Archives Branch from Bayonne, New Jersey to a more suitable location in the New York metropolitan area. The new location will provide the public better access to the records, have more space to store archival records and conduct workshops and exhibits. The present location at the military ocean terminal is totally inaccessible by any public transportation, is frequently subject to base security alerts, and is susceptible to flooding. Also, since the present facility is on a military base, it is necessary to call ahead to access entry which is not suitable for research by the general public. The Bayonne facility was not designed for archival records storage creating severe temperature and humidity problems in the building.

We also administer the system of Presidential Libraries where papers and historical materials of American Presidents, and the papers of their associates, are preserved and made available for research. Each year a large number of visitors view significant historical materials displayed in major exhibits in the Presidential Libraries. In addition, Presidential materials are administered by NARA pending the establishment of Presidential Libraries. We are currently actively involved in the planning of the Ronald Reagan Library.

Funds are included in the FY 1989 request for the acquisition, transportation, storage, preservation, and processing of the Reagan Presidential documents and materials for research use at the future Ronald Reagan Library. Approximately 50,000 cubic feet of presidential materials will be surveyed, sorted, labeled, and shipped to a temporary location in Southern California where the Reagan Library is planned. At this location, a staff will begin the initial processing of records, including arranging and taking inventory, and then begin the archival records processing.

NARA also operates a system of 14 Federal records centers where non-current Federal records are stored and serviced economically for Federal agencies until eligible for disposal or transfer to the National Archives. Each year this program results in substantial cost savings for the Government by removing records from expensive agency office space to low cost storage space provided by the records center system, and by carrying out an active and effective records disposition program.

In addition, NARA is responsible for publishing administrative regulations, the laws, and Presidential documents, in the Federal Register and related publications. We make available to the general public all of the significant rule-making documents of the Executive Branch.

Another of our important activities is the National Historical Publications and Records Commission. Although grant reauthorization is currently pending in Congress, the budget request does not include funding for grants for FY 1989. The Commission will continue in its advisory capacity, coordinating and making recommendations on high priority publications and records projects, and actively seeking private support for the program.

NARA also reviews for declassification security classified permanently valuable records and historical materials in accordance with Executive Order 12356.

Changes from FY 1988 Appropriated Fund Level

Our request of $117,862,000 is a net increase of $1,862,000 over the FY 1988 appropriation of $116,000,000. The request includes increases of $3,039,000 for the Reagan Presidential Materials staff, $600,000 for relocation of the New York Field Archives Branch, $475,000 for processing Vietnam War records, $3,823,000 for program restorations to offset reductions necessitated to fund the grant program in FY 1988, $1,372,000 for space rental for the Reagan Presidential Materials staff and for the New York Field Archives Branch, $876,000 for payments to the Federal Buildings Fund for Rent, $676,000 for increased cost of goods and services, $577,000 for operation and maintenance costs for the National Archives building and the Presidential Libraries, $286,000 for annualization of the 1988 pay raise, and $138,000 for contributions to the Federal Employees Retirement System. The increases are offset by reductions of $4,000,000 for grants and a one-time cost of $6,000,000 for the Archives facility design project.

Summary

This budget is basically a continuation of programs at the FY 1988 level and is intended to enable us to carry out our basic mission. Except for increases to fund the Reagan Presidential Materials staff, restore funds for base programs, and to relocate the New York Field Archives Branch, the request represents our assessment of resources necessary to continue the ongoing programs which are NARA's mandated responsibilities.

Thank you for the opportunity to make this statement, Mr. Chairman. I will be pleased to respond to your questions.

VIETNAM PAPERS

Senator DECONCINI. Thank you, Dr. Wilson.

Ms. Weiher, do you have any statement?

Ms. WEIHER. No, sir.

Senator DECONCINI. I will yield to the Senator from Maryland for any questions or statements she cares to make.

Senator MIKULSKI. Thank you, Mr. Chairman.

Of course, my question is related to the archival space that you were talking about. We are delighted that you have become the official custodians of the Vietnam Papers and we know that under your supervision and meticulous care they will receive the kind of care and dignity and respect that those records deserve and demand.

I am sure that we have watched so many movies about Vietnam and so much misinformation that maybe when we have a single repository, historians will start telling the story of the Vietnam war rather than those who continue to want to make political statements about the war, so we look forward to that.

ARCHIVES II

We are delighted that you are considering moving the National Archives to Maryland. In fact, today is Maryland Day. I tried to get Bob Byrd to give me the day off, but it didn't work out. [Laughter.]

Now that you are looking at the National Archives location at the University of Maryland, could you tell us why you think that it is an advantageous site, and then could you describe for us how you have looked into financial alternatives for paying for this construction?

Dr. WILSON. Yes, Senator; I would be happy to respond to that.

First, I think the placement of Archives II at College Park would allow us the very rewarding situation and association with one of America's major universities and outstanding educational-technical resources.

The National Archives established a strong record of successful relationships such as this in the Presidential library area from which background I come, particularly at the Ford Library at the University of Michigan, the Lyndon Johnson Library at the University of Texas, and now the Carter Library associated with Emory University. Each of these have been extremely successful and it has worked extremely well to have this corelationship between the National Archives and a strong educational institution.

Additionally, the proximity of the university and its students would provide an excellent labor pool for the National Archives. I think the students could benefit from internships and certainly the National Archives could benefit from part-time and full-time employment by the students.

Third, since the site is close to the proposed Metro green line, staff and researchers would have easy access to the new building, and that is one of the major criteria for us.

Last, the university has offered us the land which would be a great benefit to the Federal Government as well.

Senator MIKULSKI. So, if approved by the Board of Regents, the University of Maryland would give you the land you need free, which is often a big cost of the project; is that right?

Dr. WILSON. Particularly in the College Park area, yes.

Senator MIKULSKI. Have you looked at alternative sites for construction, not geographic sites but methods for construction like lease-back?

Dr. WILSON. Yes, Senator; we have explored several options. We have identified four options that we feel are appropriate for funding.

One is that Congress could appropriate the total amount to the National Archives. It could also give the National Archives obligational authority for the total, and annually appropriate the required amount, or give the National Archives authority to issue bonds to a banking or financial consortium to be paid off over 30 years. A fourth option is for a lease-purchase agreement similar to the arrangement made for the Federal triangle project.

Senator MIKULSKI. Do you want to elaborate on that?

Ms. WEIHER. I just wanted to mention that we have discussed with the committee staff some of these alternatives and provided them additional details on the pros and cons of the alternatives.

Senator MIKULSKI. What year would the construction money be needed?

Dr. WILSON. Construction would be needed for fiscal year 1990 to begin. The design phase will take that long to be accomplished and construction would hopefully begin toward the end of fiscal year 1990, with completion by 1993 and occupancy in 1994.

Senator MIKULSKI. Thank you.

Mr. Chairman, I know you have additional statements to that. That answered my broad brush questions. I am going to have to leave for a meeting with Senator Glenn on a State Department matter.

But I did want to say to Dr. Wilson and his staff that we would be honored if they would come to Maryland, and I know they would be delighted if I could help them come up with the money. [Laughter.]

Thank you.

Senator DECONCINI. Senator Mikulski, we are very excited about this program too. We realize that the University of Arizona just can't compete here, so we will support the University of Maryland in any way we can. [Laughter.]

It is a good program and I am glad that you have come forward with this and have put something together. This committee truly wants to work on it and maybe some innovative ideas of how we finance it under the present situation would be very helpful.

REAGAN PRESIDENTIAL LIBRARY

Dr. Wilson, by far the biggest increase in the Presidential library's budget is for the Reagan Presidential materials. Last year, the budget for the proposed Reagan Library was $255,000. In fiscal year 1989, the cost jumped to $3,294,000 I am assuming that part of that amount will be nonrecurring costs.

Can you tell us why the cost of the Reagan Library is so much higher than all the other libraries in the fiscal year 1989 program, and what will be the annual operating costs of the Reagan Library once it is fully staffed and established?

Dr. WILSON. The one-time costs primarily, Mr. Chairman, are for the relocation of the 50,000 cubic feet of materials from the Washington White House to California. There will be temporary storage requirements in California until the permanent facility is built.

We will be storing the bulk of the records in the Laguna Niguel Federal Records Center, but there will be need for some temporary storage in the Los Angeles area in close proximity to the former President. The acquisition, transportation, storage, preservation, processing, and the move to a temporary location is a large percentage of the cost.

It will then, once we are through with the first year cost of relocation and the transition, be about $1.6 million annual cost.

Senator DECONCINI. How does that compare with other Presidential libraries?

Dr. WILSON. It would be about the same as the last three Presidential libraries that have been established.

Senator DECONCINI. Is that about what the Carter Library costs are?

Dr. WILSON. Yes.

Senator DECONCINI. Is that also somewhere in the neighborhood of what it has cost to transport and store and move all materials, $3 million or so, or do you know?

Dr. WILSON. The costs are somewhat higher because of the amount of material that will have to be transported. It is an 8-year administration and we have not had that since 1960, so this is a significant amount of material that will have to be transported and stored.

Senator DECONCINI. I noticed in your justification you show that the operating costs in 1989 for the Carter Library is $708,000, for the Ford Library $764,000, for Nixon Presidential materials $886,000, for the Johnson Library it is $1,068,000, Kennedy $997,000, and then you tell us it is going to be $1.6 million operational expenses for the Reagan Library.

How do you explain the differences?

Dr. WILSON. Mr. Chairman, those costs reflected there are primarily personnel and program costs, they don't reflect the cost of maintenance for the facility.

Senator DeConcini. Is that shown somewhere else in here?

Ms. Weiher. Yes; it is on page 13 of the budget. If you go down to the actual costs—libraries; that $7 million figure in round numbers, that is the operational cost of the libraries.

Senator DeConcini. Is that broken down?

Ms. Weiher. It is broken down, not in the budget, but we can certainly supply that by library.

Senator DeConcini. Would you please?

Ms. Weiher. Yes, sir.

[The information follows:]

PRESIDENTIAL LIBRARIES OPERATIONS AND MAINTEANNCE COSTS USABLE FLOOR SPACE

[Fiscal year 1989 estimated costs]

Presidential library	Operations and maintenance costs	Usable floor space square foot[1]
Herbert Hoover	$312,000	23,839
Franklin D. Roosevelt	568,000	40,701
Harry S. Truman	806,000	61,103
Dwight D. Eisenhower	853,000	82,395
John F. Kennedy	1,153,000	71,679
Lyndon B. Johnson	1,232,000	96,872
Gerald R. Ford Library and Museum	966,000	71,116
Jimmy Carter	954,000	63,866
Major repairs and alterations	800,000	
Total operations and maintenance	7,644,000	

[1] Actual square footage based on a fiscal year 1987 survey.

ADDITIONAL COMMITTEE QUESTIONS

Senator DeConcini. Thank you.

Dr. Wilson, I have a few other questions that I will submit to you for answering in the course of your schedule.

Thank you very much. It was a good presentation.

Dr. Wilson. Thank you.

Senator DeConcini. It was very helpful to us.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

FY 1989 BUDGET REQUEST

ORIGINAL REQUEST TO OMB

Senator DeConcini: You are asking for a budget of $117,862,000 for fiscal 1989 -- about $1.8 million over the level appropriated in fiscal 1988, but a cut of about $5 million when you factor in carryovers available in fiscal 1988. What was your original request to OMB for the Archives in fiscal 1989; where did they cut you back; and why?

Dr. Wilson: Our FY 1988 budget includes $6,000,000 for Archives II which is a one-time cost. Therefore, our total FY 1989 budget request is about $7.8 million over the FY 1988 budget. Our original request to the Office of Management and Budget in FY 1989 also included $5 million for the grants program.

CONSTRUCTION OF THE ARCHIVES II FACILITY

Senator DeConcini: Last year Congress appropriated $6,000,000 for design and planning of a new archival facility in Maryland. It is my understanding that a site has been donated at the University of Maryland for the new archival facility and that the new facility could cost as much as $204 million. The original estimate for the project was about $100 million, I am told. What happened to the price tag on this project?

Dr. Wilson: The original estimate of $100 million was based on calculations completed by the General Services Administration in the early 1980's. At that time GSA made some very general space and cost estimates for a new archives facility. GSA did not conduct a detailed requirements study. In our initial planning efforts we knew this estimated cost was based on incomplete data, but it was the best we had at the time. We knew we needed a much more definitive requirements analysis to reach more accurate space and cost estimates. Consequently, we hired professional space planners to complete a pre-design study for us. The current cost estimate is based on this detailed study completed in January 1988, which identified NARA's program requirements, documented functional relationships, and recommended the type and configuration of a building that meets NARA's special needs. The planners also prepared design and construction cost estimates based on these needs and current construction costs.

Senator DeConcini: What is your timetable for the project -- from design, to construction, to completion, if you receive the funds to begin work on the project in Fiscal 1989 and subsequent fiscal years?

Dr. Wilson: We plan to begin the design of Archives II in late summer of 1988 and anticipate that it will be completed in early 1990. Construction should begin in 1990 and be completed in the late fall of 1993.

Senator DeConcini: What is OMB's view on proceeding with the new archival project as a "lease-purchase" project, rather than paying for the facility all up front?

Dr. Wilson: Generally OMB does not like lease-purchase projects. However, we know of four building projects recently approved by OMB that are using this type of financing. We presume that we could get authorization for a lease-purchase project if everyone agreed that this was the best approach for NARA.

Senator DeConcini: What is your estimate of the additional staffing that this new archival facility will take once it is completed?

Dr. Wilson: There currently are 600 NARA employees working in our Washington, D.C. facilities that will be reassigned to Archives II. We expect ultimately to have 775 NARA employees working in the new facility. In addition, there may be as many as 200 contract employees working in Archives II in such areas as facility maintenance, security, and the cafeteria.

Senator DeConcini: How much in annual rent costs and other administrative overhead costs will you be able to save once you have consolidated into the new facility at the University?

Dr. Wilson: By vacating 10 leased facilities in the Washington, DC, area and consolidating their operations in the National Archives Building and Archives II, NARA will save over $3.2 million in annual rental costs. Other administrative overhead costs are more difficult to quantify. We have spent a substantial amount of money over the years in trying to make the environmental conditions in leased facilities adequate for archival records. Unfortunately we have been less than fully successful and, as a result, historical records are stored in locations that cannot meet the National Bureau of Standards environmental storage standards for archival records.

It is almost impossible to quantify the administrative inefficiencies in having our operations spread out in the DC area. For example, the continued dispersal of archival records wastes resources by forcing NARA to operate duplicate support facilities, such as research rooms, conservation labs, and duplication labs in each location. Our split archival operations makes the research activities of federal agencies and the general public more difficult and time consuming.

RESTORATION TO OFFSET REDUCTIONS NEEDED TO FUND GRANTS

Senator DeConcini: Included in your Fiscal Year 1989 budget is $3,823,000 "for program restorations to offset reductions necessitated to fund the grant program in Fiscal Year 1988". This Committee, as you know, directed Archives to pay $4 million for grants for historical publications and records out of its total FY 1988 budget. Now you want that money back in FY 1989. Why should this Committee approve this restoration after essentially telling you to absorb the cost of the grant program last year?

Dr. Wilson: NARA is not just absorbing the $4 million in FY 1988. During the past few years, NARA has sustained several large reductions to our budget base. Our request for program restorations would restore some of the funds we have lost.

In FY 1986 our appropriation required that we fund half of the grants program from our base. The FY 1987 and FY 1988 appropriations required that NARA fund all of the grants program without providing any additional funds. In addition, we absorbed the FY 1987 and FY 1988 pay raises. To absorb these costs, we had to reprogram funds from our base to fund the grants program.

Senator DeConcini: What will be the effect on your operations if we deny this part of your FY 1989 request?

Dr. Wilson: To compensate for these reductions, we had to cut back in many program areas. The activities identified in the 20-year preservation plan are being performed but significantly below targeted levels. Total personnel within the Archives has basically remained well below the authorized ceiling with adjustments made between programs to compensate for additional workload. Equipment purchases and repairs and alterations to the Archives building have been delayed.

Many of the problems caused by these delays have not had the immediate impact faced by, for example, regulatory agencies. Nevertheless, the need for preservation program improvements, repairs and alterations to the Archives building, replacement of key personnel and more space suitable for archival storage is no longer in the future but in the present. The $3.8 million requested for program restorations will allow us to begin responding to some of these needs.

TRAVEL

Senator DeConcini: This Committee recommended a reduction of $93,000 in travel and transportation activities in Fiscal Year 1988, as your share of a government-wide effort to cut back travel last year. Yet an examination of your object class table shows that your travel budget has increased $69,000 between 1987 and FY 1988, and goes up again in FY 1989. Why haven't you complied with the Committee's travel cuts?

Dr. Wilson: Following the Senate's recommendation that NARA reduce its allocation for travel and transportation activities by $93,000, the Congress passed a continuing resolution that, in our opinion, restored our appropriation for these activities to the level set forth in the Fiscal Year 1988 budget estimates submitted by the President. We are, however, attempting to comply with the Senate's intent by keeping our travel costs to a minimum.

CARRYOVER BALANCE

Senator DeConcini: You anticipate that $6,932,000 will be carried over from prior years into Fiscal Year 1988. Can you breakdown this carryover balance for the Committee and tell us where it came from?

Dr. Wilson: The $6,932 thousand carried forward consists of $2 million from the FY 1982 supplemental; $4,582 thousand for the Kennedy Library Annex addition; and $350 thousand for no year grants. The funds have been carried forward into FY 1988 because they were not obligated in FY 1987.

RENT AND RECURRING REIMBURSEMENT PAYMENTS TO BUILDINGS FUND

Senator DeConcini: Your justifications (p. 13) show that your budget for rent and recurring reimbursement payments to the Federal Buildings Fund for Presidential Libraries will nearly triple in Fiscal Year 1989 over fiscal 1988 -- from $421,000 to $1.2 million next year. Can you explain this huge percentage increase in one year?

Dr. Wilson: The $1.2 million for Rent and recurring reimbursable payments to the Federal Buildings Fund in Presidential Libraries includes an increase of $738,000 for temporary space rental for the Reagan Presidential Materials staff and storage. Rent and recurring reimbursements excluding Reagan in FY 1989 is estimated at $469,000 or an increase of $48,000 over the FY 1988 level.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

GRANTS

Senator Domenici: The Fiscal Year 1988 appropriation provides $4 million for grants under the National Historical Publications and Records Commission to allow universities and research institutions to publish historic papers and documents. The President's Fiscal Year 1989 budget request again includes no funding for this grant program. Were these funds included in your original Fiscal Year 1989 request to the OMB?

Dr. Wilson: Yes. Our FY 1989 budget request to OMB included $5 million for the National Historical Publications and Records Commission's grant program.

Senator Domenici: If federal funding for these grants is not provided do you believe you could solicit private funding of $4 million for this purpose?

Dr. Wilson: Since 1981, the NHPRC has mounted a vigorous effort to increase private contributions. We have achieved some positive, but limited, results. Staff visits to university officials have brought some increased institutional support to some projects; no relief to others. Attempts by NHPRC and project staffs to interest private donors have also been moderately successful. The staff has helped organize several consortia of projects for the purpose of raising funds. The consortia are composed of individual projects linked by subject interest, such as the founding fathers, black history, and women's history. Commission staff members have worked with the consortia in preparing proposals and visiting a number of foundations. Since the major fund-raising drive began, Commission-supported projects have raised approximately $4.5 million.

Most foundation officials, however, are skeptical about the possibility of the private sector replacing federal support in this area. With the rapidly escalating demands on the resources of most charitable organizations, the field of documentary editing does not occupy a position of high priority. Also, foundation officials have indicated that ongoing projects cannot expect private philanthropy to supply total support for staff salaries and operating costs. Robert Payton, president of the Exxon Education Foundation, said recently that "charity and philanthropy operate at the margins. They cannot address base budget problems."

Senator Domenici: How would you "actively solicit" funding for such projects?

Dr. Wilson: Whether or not appropriated grant funds are available, Commission staff will pursue its campaign to interest the private sector in projects supported by the NHPRC. Staff members will continue to visit presidents of universities to encourage greater institutional commitment and will help project editors to solicit private funding.

Senator Domenici: What would be the impact of terminating federal funding for these grants and not having adequate private funding for this purpose?

Dr. Wilson: Of the 48 currently active documentary editing projects, it is likely that 27 would have to close down completely, the work of the remaining projects would be seriously impeded, and no new projects could be started.

Archival and records management projects now funded under the records grant program would also be severely jeopardized. State and local governments would be called upon to provide increased funding for public records projects in their jurisdictions. Non-Federal support could probably be secured for no more than five percent of the projects now receiving grant assistance from the Records Program.

ARCHIVES II BUILDING

Senator Domenici: The Fiscal Year 1989 appropriation provides $6 million for the planning and design of a new archival facility in Maryland. What is the current status of this planning and design work?

Dr. Wilson: In January, 1988 the firms of Hellmuth, Obata and Kassabaum (HOK) and Ellerbe Becket were selected as finalists for the design of Archives II. Price negotiations are underway with these firms. We plan to begin the design of Archives II in late summer of 1988 and anticipate that it will be completed in early 1990.

Senator Domenici: How much of the $6 million will be obligated by the end of fiscal year 1988?

Dr. Wilson: Because of the length of time it takes to complete the procurement process for architectural and engineering services, in all likelihood the bulk of the money for the A&E contract will be obligated in fiscal year 1989.

Senator Domenici: When do you expect the planning and design work to be completed?

Dr. Wilson: We plan to begin the design of Archives II in late summer of 1988 and anticipate that it will be completed in early 1990.

Senator Domenici: Have you selected a site?

Dr. Wilson: Two sites are under consideration. The preferred site is 37 acres on the northwest part of the University of Maryland campus. The Board of Regents of the University have indicated a desire to provide a site to the Federal Government. The second site is 79 acres at the southern end of the Suitland Federal Center Complex, Suitland, Maryland. The land would have to be purchased from the General Services Administration at the current market value.

Senator Domenici: What is the projected cost of this new archival facility?

Dr. Wilson: The estimated cost of construction, excluding the cost of land acquisition, is $120.41 per square foot which totals $204,692,000 in fiscal year 1988 dollars for constructing a 1.7 million square foot facility. This includes the cost of the records shelving.

CONDITION OF RECORDS

Senator Domenici: Of the Archives total record holdings, how many are currently being stored under unsuitable conditions which may be threatening the preservation life of these valuable documents?

Dr. Wilson: The National Archives has 1.48 million cubic feet of paper records in its holdings. Proper storage conditions for paper records involves both storage in controlled environment and storage in proper housing.

A 1983 study prepared by the National Bureau of Standards outlined the environmental controls concerning air quality criteria for storage of paper-based archival records. The report stressed the importance of constant dry and clean air with a stable temperature of 70°F and a relative humidity of 45 percent. Unfortunately, the environment in the National Archives building does not meet these standards. At any one time, 20 percent to 60 percent of the 196 stack areas in the building fail to meet this standard. Thus the nearly 700,000 cubic feet of paper records stored in the National Archives building are stored in an unsuitable environment.

The most serious and immediate problem facing NARA is that archival records are being housed in two locations other than the main Archives building which are also environmentally unsuitable for storing valuable documents. Approximately 438,000 cubic feet of archival records are stored in the Washington National Records Center in Suitland, MD, and 86,500 cubic feet of records are stored at a leased facility in Alexandria, VA.

The Washington National Records Center was built in the 1960's as a low-cost storage facility for temporary Federal records and does not provide the necessary environmental conditions for the storage and processing of archival records. Although we always viewed the storage of records at the Center as a temporary measure, NARA has been forced to establish archival facilities (e.g. research room and labs) there to support the growing amount of archival records stored in the Center.

Another short term solution was the leasing in 1982 of a storage facility at Pickett Street in Alexandria, VA. Like the Center at Suitland, this facility was not designed for archival storage, and again we had to establish duplicate archival support services in inadequate space. Moreover, we have had major water problems because of a leaking roof. The unsuitable conditions at Pickett Street pose threats to valuable historical records.

The completion of a new archival facility will not only enable us to move the records in these locations to suitable space but will ease the storage load in the National Archives building and permit a redesign of the heating, ventilation, and air-conditioning systems. Without construction of a new facility, NARA will be forced to search for additional leased storage space to house archival records which will result in more records being stored in conditions unsuitable for archival storage.

VIETNAM WAR RECORDS

Senator Domenici: Funds were provided in the Fiscal Year 1987 supplemental for the processing and declassification of Vietnam War Records; your Fiscal Year 1989 request includes an additional $475,000 for this purpose. What do you estimate the total cost of this effort to be?

Dr. Wilson: The Supplemental Appropriation paid for start up costs associated with the project and the acquisition of needed data processing, preservation, and specialized microfilm readers and printers. We estimate that on-going costs for the project will be $475,000 per year for five years, a total cost of $2,375,000.

At the conclusion of the five-year project to prepare and organize these records for research, the costs associated with the normal archival administration of materials will continue. Since these records do not include Vietnam materials from outside the Department of the Army in Vietnam, the current estimates are not applicable to all materials documenting the Vietnam War.

RECORDS CENTERS INCENTIVE AWARDS

Senator Domenici: Your justification indicates that $275,000 in savings were achieved in the Records Centers in Fiscal Year 1987 through an incentive awards program whereby employees who achieve productivity increases resulting in savings get an award amounting to one-fourth of the government's savings. Is this program an ongoing one?

Dr. Wilson: An incentive awards system was started in the Federal Records Centers in FY 1987 in an effort to increase productivity by rewarding employees who were performing significantly above expectations. Employees are evaluated every three months for eligibility for incentive awards.

Senator Domenici: How many employees received such awards in Fiscal Year 1987?

Dr. Wilson: In the first year awards were issued to 412 employees with savings of $283,270. Because of the success of this program we plan to continue the awards system.

Senator Domenici: What was the highest award?

Dr. Wilson: The largest award was to an employee at the National Personnel Records Center for $790.

Senator Domenici: How were their productivity savings measured?

Dr. Wilson: Performance standards were developed in the major work categories of the Records Centers. Employees who regularly exceeded these standards by fifteen or more percent during a three month period were eligible for awards. Increased productivity is calculated based on work hours saved. Employees were then given twenty-five percent of this savings based on their current rate of pay.

PRESERVATION

Senator Domenici: Are you still following the 20-year preservation plan instituted a few years ago or has that plan been altered? What are your current preservation goals?

Dr. Wilson: Due to the funding levels provided, the preservation program at NARA is being implemented at a substantially reduced level from the preservation goals of the original plan. In light of the reduced funding levels in the last few years, NARA is reevaluating the original twenty-year preservation plan to develop a revised preservation program. We will consider economical alternatives to current preservation strategies and extend the program beyond the year 2005 to compensate for the lower funding rate. We are employing outside experts in statistical analysis to assist NARA in developing the new plan.

DECLASSIFICATION

Senator Domenici: Where do you currently stand in the area of declassification of classified materials?

Dr. Wilson: Since 1980 the Records Declassification Division has declassified over 57 million pages of national security classified records. Approximately 79,500 cubic feet of records have been made available for research use. Records made available include most of the remaining significant records relating to World War II and Korea, some of the early Cold War records, and records from the early fifties including State Department records through 1954. NARA is currently working on projects to declassify State Department records through 1959, records of predecessor agencies to the Agency for International Development through 1954, and recently accessioned records of the Office of Strategic Services.

Researcher initiated declassification reviews usually require extensive coordination with the agencies having jurisdiction over the information and frequently concern highly sensitive information which must remain classified. Because of resource limitations fewer and fewer records are being systematically reviewed and the researcher-initiated requests have dramatically increased in recent years: the number has risen from 116 in 1983 to 354 in 1987. The average number of pages reviewed per request has risen from 4,000 to 10,000 in the same period. Systematic reviews are more productive than special reviews for researchers because the records are largely declassifiable using the guidelines provided by the agencies. As the growth in researcher initiated requests continues, the amount of records systematically declassified will continue to fall. NARA's declassification efforts are further impacted by rapid personnel turnover and delays in obtaining necessary security clearances for new employees.

Senator Domenici: How many positions will be allocated to this effort in Fiscal Year 1989?

Dr. Wilson: A total of 79 positions, 64 to be paid for from direct funds and 15 from reimbursable funds, have been requested for Fiscal Year 1989.

Senator Domenici: What is the backlog of materials requiring declassification?

Dr. Wilson: The 1987 Records Declassification Task Force estimated that 127,016 cubic feet of records or 317,540,000 pages require declassification review. This is a 137 percent increase in the classified holdings since 1984. In addition, in 1985 there were more than 68,000 rolls of security classified microfilm in the holdings of the National Archives which also require review. A recent survey of records to be transferred to the National Archives shows that approximately 40 percent of these records or about 60 million pages a year are expected to contain classified information.

ARCHIVES GIFT FUND

Senator Domenici: Of the total balance available in the National Archives Gift Fund, what amount is restricted to uses designated by the donors?

Dr. Wilson: The Gift funds administered by the National Archives Trust Fund Board are viewed as three distinct accounts. The funds are divided and administered separately for the Presidential libraries, the National Historical Publications and Records Commission, and the National Archives. In FY 1989, we estimate the amount of total funds available in the gift fund accounts to be approximately $2 million.

The Trust Fund Board considers all funds designated to the Presidential libraries and the National Historical Publications and Records Commission to be restricted gifts or donations and are used solely for the purpose of those organizations. These organizations constitute 92 percent of the funds available.

In FY 1989, we estimate the amount of unrestricted gifts and donations to be approximately $23 thousand.

Senator Domenici: If the gift is not subject to donor restrictions, who determines how the grant or donation will be expended?

The Archivist, as Chairman, has been authorized by the Board to accept unrestricted gifts or bequests of any kind or amount that: (a) support NARA's program activities and (b) provide general purpose or benefit any existing or proposed Presidential library administered by the Archives.

The Archivist in consultation with the Assistant Archivist for each program can determine how and when the funds will be expended through two processes. First, an immediate discussion can be held with the Assistant Archivists to solicit initiatives and then determine if any current proposals or activities warrant funding. Second, the annual operating plan can be used to solicit proposals and determine the best immediate use of the funds during the fiscal year or if the resources should be used for a longer term project.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

STATEMENT OF MARSHALL J. BREGER, CHAIRMAN

ACCOMPANIED BY:
GARY J. EDLES, LEGAL COUNSEL
JEFFREY S. LUBBERS, DIRECTOR OF RESEARCH
DANIEL F. MANN, DIRECTOR OF ADMINISTRATION

PREPARED STATEMENT

Senator DeConcini. Our final witness this morning is Mr. Marshall J. Breger, the Chairman of the Administrative Conference of the United States.

Thank you, Mr. Breger, your full statement will ~~be printed~~ in the record, and we would ask that you summarize it for us please.

Mr. Breger. Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF MARSHALL J. BREGER

Introduction

My name is Marshall J. Breger and I serve as Chairman of the Administrative Conference of the United States. Accompanying me are Gary J. Edles, Legal Counsel; Jeffrey Lubbers, Research Director, and Daniel F. Mann, Director of Administration. I am pleased to be with you to discuss the mission of the Administrative Conference and to support the President's request for $1,865,000 to undertake that mission in Fiscal 1989.

Last year, I had the privilege of testifying before this subcommittee on the role of the Conference and the manner in which we attempt to improve the administrative process throughout the federal government. My testimony spelled out in some detail just how the Conference operates and the processes by which we study issues and make recommendations. We, at the Conference, believe that painstakingly objective and comprehensive studies on public policy issues can make a difference.

We feel honored that as part of last fall's appropriations process Congress specifically directed us to use our expertise in Fiscal 1988 to investigate three areas particular concern -- namely, immigration procedures, the use of alternative dispute resolution techniques by government agencies, and administrative law issues in the regulation of financial services.

I will spend some time today discussing the mission Congress has given the Conference, both generally in our enabling statute, the Administrative Conference Act, and more specifically through last year's appropriations process. In this connection, I will outline the projects we plan to undertake in the coming year and provide a brief recapitulation of our endeavors over the past year. In the event that there are some who are unfamiliar with our method of operation, let me begin with a brief statement of how the Conference operates.

Method of Operation

The core activity of the Administrative Conference is the research and development of formal recommendations to improve administrative procedures throughout the federal government. Our basic mission is to recommend to the President, to the Congress and to federal agencies ways to improve the fairness and efficiency of the administrative procedures that agencies use. This includes the procedures or processes used by the agencies to conduct rulemakings, hold administrative hearings, and take action on an informal basis. The Conference also advises the Judicial Conference of the United States on matters of administrative law relating to judicial review of agency decisions.

The Conference has an authorized membership of 101. It is directed by a Chairman who is an advice-and-consent appointee with a term of five years. The Chairman directs the small, permanent staff. Among the 101 members is a 10 member Presidentially-appointed Council, consisting of five federal officials and five non-government members. The Council's function is similar to that of a corporate board of directors. The remaining 91 members come from both the government and the private sector.

Our 1986 authorizing legislation increased our total membership from 91 to 101 members. In 1987, we began to fill those new vacancies. To begin this process, the President nominated two new federal agencies -- the International Trade Commission and the Merit Systems Protection Board -- to membership in the Conference. The Council added a representative from the community of Inspectors General and an individual to represent the concerns of members of Boards of Contract Appeals (BCA). Inspectors General and BCA members are important participants in the administrative process. Since agencies tend to designate senior level management officials to represent them, however, the perspective of these other two groups of key federal employees would not be available to the Conference unless we specifically set aside seats for them. This is precisely what we have done. (The administrative law judges already are represented in the Conference membership.)

We currently have 91 of the 101 Conference seats filled. (The turnover rate of Conference membership and, hence, the vacancy rate, is always higher than usual during the final year of any Administration.) Fifty-two (52) of our members are from government and 39 are from outside government. These voting members of the Conference, apart from myself, are volunteers. These 91 people are among the government's foremost legal officers, the leading academics in the field of administrative law, and others from private life who are knowledgeable concerning governmental processes.

The 52 government members of the Conference are selected by the President or designated by their departments or agencies. Those who represent government entities are typically general counsels, commissioners or assistant secretaries. Apart from the five non-government Council members, all public members, i.e., those outside the government, are appointed by the Chairman with the consent of the Council. They serve for terms of two years. They encompass all points of the political spectrum and offer a variety of perspectives. Among our public members, for example, are Thomas M. Susman, former General Counsel of the Senate Judiciary Committee and legislative aide to Senator Kennedy, now in private law practice in Washington, D.C.; Michael B. Wallace, former Counsel, Office of the House Republican Whip, now in private law practice in Jackson, Mississippi; Lloyd

Norton Cutler and Fred F. Fielding, former White House Counsels to Presidents Carter and Reagan respectively; Alan B. Morrison, Director of the Public Citizen Litigation Group; Paul R. Verkuil, President of the College of William and Mary and one of this country's foremost experts on administrative law; Monroe Price, Dean of the Cardozo Law School in New York City; Jonathan Weiss, Director of Legal Services for the Elderly; and Kenneth J. Bialkin, in private law practice in New York and a nationally known authority on banking law.

Due to the prestige of Conference membership, the government receives the expertise of corporate general counsels, leading law professors, private practitioners, and others with a wide variety of backgrounds, accomplishments and perspectives -- all for the minimal "cost" of travel expenses. Our public members share two things in common -- an expertise in problems of administrative procedure and a willingness to contribute that expertise to make the governmental process more open, fair, and efficient.

The Conference's advice is given principally through formal recommendations which are debated and adopted by vote of the Conference's members. The Conference develops its recommendations by a process of continued discussion and debate which leads to an exhaustively researched and closely reasoned work-product. The Chairman initially decides to pursue a particular topic on the basis of suggestions from Members of Congress, Conference members, agency officials, academics or others. When a topic has been defined, the process begins by selecting a consultant -- typically a law professor who already is a noted national expert in that particular field. The consultant reviews available literature and case law, interviews agency officials, and submits a comprehensive report on the topic. The Conference's Research Director and one or more of its staff attorneys work closely with the consultant throughout this process.

When the consultant's report has been completed, it is reviewed by the members of one of our six standing committees or two special committees. (All Conference members serve on one or more of these committees.) The committee develops a proposed recommendation which is then reviewed by the Council. If the Council endorses the proposal, it is placed on the agenda of the next semi-annual general meeting -- or Plenary Session.

At the Plenary Session, the proposed recommendation is debated thoroughly. Often recommendations are amended. Occasionally, they are referred back to committee or voted into oblivion. If a recommendation is adopted it is published in the Federal Register. The final recommendation is added to the Code of Federal Regulations at 1 CFR Part 305.

Once recommendations are published, the Conference takes special effort to have agencies, Congress or the President implement them. A separate file is maintained on each recommendation in which information about agency compliance with that recommendation is kept. Our governing statute does not grant us power to compel compliance with our recommendations, but rather reflects a conscious decision by the Congress that the Conference wield the carrot of persuasion rather than the stick of compliance. Therefore, our implementation activities are of necessity persuasive only. Nonetheless, the quality of Conference reports and the imprimatur of Conference recommendations is such that agencies often strive to place themselves voluntarily in accord with Conference mandates.

The Conference also engages in extensive advisory and consultative activities. These are undertaken when we receive requests from agencies, from OMB and Congressional staff or committees for views on procedural problems or pending legislation. In such situations, the Chairman or Conference staff will assist through testimony, written comment or informal advice based upon the many Conference recommendations or staff expertise.

A further major category of Administrative Conference study comes under the heading of clearinghouse activities. We are directed by the Administrative Conference Act to "arrange for interchange among administrative agencies of information potentially useful in improving procedure." [5 U.S.C. §574(2).] We widely disseminate our research reports and open our library to the public and to other agencies; our library is one of the major repositories for administrative law materials in the Capital. Our activities under this heading also include the sponsorship of formal and informal meetings for agency personnel, chairing informal groups such as the Council of Independent Regulatory Agencies, and producing compilations and documents which are useful to agencies generally.

The Need for Themes

The Conference's overall mandate is very broad. We are charged in the Administrative Conference Act with studying the efficiency, adequacy and fairness of federal administrative procedure and making recommendations for improving that procedure. We are also directed to collect data on the administrative process and, as noted above, to arrange for an exchange of information among federal agencies -- all toward the goal of bringing about improvements in the way the government conducts its business. [See 5 USC §574.]

Since our mission is so encompassing, and our resources are necessarily limited, it is essential that we channel our research and implementation efforts into selected "themes," attempting to predict which areas are the most likely candidates for significant improvement.

Our task in this regard will be somewhat easier in Fiscal 1989 because, as part of the Fiscal 1988 appropriations process, Congress directed us to examine three specific subject areas -- the procedural aspects of immigration law, the use of alternate dispute resolution techniques by federal agencies, and the procedural aspects of financial services regulation. We have already initiated these projects and I anticipate that these three subject areas will constitute a significant portion of the Conference's efforts in Fiscal 1989 as well. In addition, the Domestic Policy Council has asked us to undertake a comprehensive review of federal employee grievance procedures. The project is to be completed in the first quarter of Fiscal 1989, i.e., by the end of calendar year 1988.

Immigration

As the members of this subcommittee are well aware, the substantive issues affecting U.S. immigration policy have been much debated of late and largely addressed in recent legislation. However, little attention has been directed to the administrative procedures which have been developed to determine the rights, privileges and obligations of the private individuals affected by our immigration laws. Indeed, at a forum on immigration law sponsored by the Administrative Conference, Representative Albert G. Bustamante of Texas noted that the procedural aspects of the new immigration law will have a considerable impact on its fair application.

As part of our response to Congress' directive that we study the procedural issues associated with the immigration law, the Conference last fall sponsored a Congressional seminar on potential immigration studies in order to benefit from the expertise of members of Congress and their aides, federal agency offices, and other interested members of the public. We asked Professor Stephen Legomsky of the Washington University Law School in St. Louis, a noted expert on immigration law, to provide a research agenda on proposed projects in immigration law. He submitted suggestions in thirteen different areas, including the reviewability of consular officers' denials of visa applications, legal representation of aliens in administrative proceedings, the applicability of Administrative Procedure Act (APA) requirements to deportation proceedings, and a comprehensive look at asylum procedures. In light of the comments received at last fall's seminar, we evaluated these projects and determined which ones would be most beneficial. Due to the continuing concerns over immigration procedure, I am certain we will be in the immigration law business well into Fiscal 1989, and perhaps beyond.

I want to report to you on two projects that the Conference has already initiated in the area of immigration. The first will examine the alien legalization program. The Immigration Reform and Control Act of 1986 permits aliens who can show residency in the United States since January 1, 1982 to apply for legalized (temporary resident) status. Applications must be filed by May 4, 1988 unless the program is extended. Applicants who qualify for temporary resident status then have approximately two years to apply for permanent resident status. The program is a decentralized one, handled through four Immigration and Naturalization Service (INS) regions, thirty or so district offices, and more than 100 newly opened legalization officials. The Conference has engaged David S. North of the New Transcentury Foundation, an authority on immigration issues, to prepare two reports on the program. The first, which should be available shortly, will help evaluate whether the legalization program should be extended beyond its current May 4 deadline. The second report will address a wide range of questions dealing with the INS' implementation of the legalization program. We hope to discover, among other things, whether there has been inconsistency in decisionmaking among INS officials and whether the internal review process has functioned effectively. Since the rules for implementing the program have evolved over time, generally becoming more liberal, we also hope to learn whether, for example, any prejudice has resulted if applications were rejected on grounds later abandoned by the INS.

Our second immigration project assesses the reviewability of consular officers' denials of visa applications. Almost all aliens who wish to enter the country must first secure visas. Visas are issued by consular officers at the various U.S. consulates abroad. When a consulate denies an application for a visa, the applicant may ask for administrative review by the Visa Office in Washington. However, the decision of the Visa Office is largely advisory. Moreover, the courts generally have been disinclined to review consular officers' decisions. The lack of meaningful review procedures for decisions by consular officers has been the subject of criticism in advocacy and academic circles. The Conference is now studying whether there is a need for administrative or judicial review of these denials, including the practical significance of establishing a new range of procedural protections.

Alternative Dispute Resolution (ADR)

We are responding energetically to last year's directive from Congress that we conduct additional work in the area of "ADR" -- alternative means of dispute resolution for the federal government. I am convinced that ADR is a very good thing, a technique that many if not most federal administrative agencies can and should employ in their decisionmaking processes. I am referring to techniques such as mediation, factfinding, conciliation, minitrials and arbitration. The Conference's 1982 and 1985 ADR recommendations stimulated a growing number of agencies to experiment with ADR techniques.

The Conference has examined the use of ADR in a variety of contexts over the past few years. Each time it has concluded that there are opportunities throughout the federal government for simplifying procedures, lowering costs, and enhancing the responsiveness of agencies and the legitimacy of their decisions. If ADR techniques were employed, we believe a corresponding reduction in contentiousness, delay and expense would be realized.

I do not mean to suggest that the various ADR methods are a panacea. Nor do I believe that we are going to bring litigation to an end -- or should. There will clearly be times when conventional adversary procedures are to be preferred. Yet, agencies should be encouraged to use innovative ADR processes to help the parties reach timely, acceptable and informed decisions consistent with the public interest in those circumstances where it seems useful to do so. ADR is simply a means to make dispute resolution in the federal administrative process more efficient and more satisfying to the parties in appropriate circumstances.

The Conference began sustained ADR efforts by developing the concept of negotiated rulemaking. "Reg-neg", or negotiated rulemaking, has since emerged in agencies such as the Environmental Protection Agency and the Federal Aviation Administration as a leading alternative to more traditional rulemaking techniques. As a "proud parent," the Conference has continued to monitor "reg-neg" developments and to contribute to the refinement and improvement of the "reg-neg" concept.

The Conference subsequently called formally for greater use of ADR in agency litigation, and recommended ways for agencies to take greater advantage of mediation, minitrials, settlement judges, organizational streamlining and other means now at their disposal to encourage settlement of many conflicts. (Recommendation 86-3.) Other recently completed research projects have led to Conference recommendations on training and hiring "neutrals" for ADR in government disputes (Recommendation 86-8), negotiating Superfund cleanups (Recommendation 84-4), making agency handling of tort claims less arbitrary (Recommendation 84-7), and resolving contract disputes. (Recommendation 87-11.) We have also evaluated the use of expedited procedures for employee grievances at the Merit Systems Protection Board. [See Adams & Figueroa, *Expediting Settlement of Employee Grievances in the Federal Sector - An Evaluation of the MSPB's Appeals Arbitration Procedure* (Report to the Administrative Conference of the United States, January, 1985).] To help alleviate our funding constraints, we successfully sought *pro bono* assistance on several ADR projects. (See Appendix A for a list of potential ADR projects.)

Ordinarily, the use of most ADR procedures poses no serious constitutional or statutory difficulties because they leave final decisional authority in the hands of government officials. Arbitration, however, delegates decisional responsibility to private individuals with only limited governmental review. The Conference commissioned Professor Harold H. Bruff of the University of Texas Law School to study the constitutionality of arbitration in federal programs. Relying on the Bruff study, the Conference recommended that Congress take steps to avoid constitutional conflicts in authorizing arbitration to settle disputes involving agency decisions. (Recommendation 87-5.) Thereafter, the Conference asked its former General Counsel, Richard Berg, to examine existing statutory or regulatory inhibitions on the use of arbitration with a view toward removing any remaining uncertainties surrounding the use of arbitration. The Bruff and Berg studies will be published in Fiscal 1988 and should provide significant certainty to those agencies new to the use of arbitration.

Recently, with the cooperation of nine other agencies, the Conference sponsored a government-wide colloquium on agency dispute resolution. The proceedings have been published in the American University *Administrative Law Journal*. Additionally, we have compiled and published our *Sourcebook: Federal Agency Use of Alternative Means of Dispute Resolution*, held a seminar on issues in federal dispute resolution legislation, chaired an ongoing inter-agency working group on negotiated rulemaking, and worked closely with congressional staff to draft both "reg-neg" and other ADR legislation. The Senate legislation, S. 1504, was introduced by Senator Carl Levin with several co-sponsors. It creates a framework for agencies to establish rulemaking negotiating committees. It also provides a special role for the Conference as a source of advice and support.

Finally, we are reviewing three specific alternative dispute resolution procedures. First, the Conference is examining the experience of the Federal Energy Regulatory Commission in the use of "settlement judges" to resolve formal agency proceedings. Second, we will complete our study of the Commodity Futures Trading Commission's three-tiered reparations process by assessing its potential utility for other agencies. Finally, we will examine the allowable uses of arbitration in environmental enforcement litigation.

Financial Services

During the past year, the Conference has encouraged greater activity on the part of its Special Committee on Financial Services in light of the growing problems in the domestic banking industry. The initial focus of this Special Committee is on the procedural and structural aspects of governmental institutions involved in the regulation of financial services, in particular, banking and securities regulation. The Conference hopes to explore systematically the extent to which perceived problem areas might benefit from the insights and values of administrative law and procedure.

The Conference has commissioned five studies of the financial services industry. It is anticipated that the Special Committee on Financial Services will review these studies and make recommendations to the full Conference membership by the close of 1988. The first of these studies, Professor Michael P. Malloy's study on "Adjudication Practices and Procedures of the Federal Bank Regulatory Agencies", was discussed at our December, 1987 Plenary Session. The conference membership voted to recommend five steps for bank regulatory agencies to employ to improve their formal adjudicatory processes with respect to regulatory enforcement actions. Recommendation 87-12, (which is shown in its entirety at Appendix B), encourages bank regulatory agencies to develop uniform rules of practice and procedure; to publish or otherwise make available their opinions and decisions in enforcement cases; to articulate routinely, through rules or policy statements, any enforcement policies that have been developed through adjudications; to consider whether a pool of administrative law judges might be developed to serve the agencies; and to consider whether they should establish a pre-complaint notification procedure (similar to that used by the Securities and Exchange Commission).

The other four projects that the Special Committee on Financial Services will review are "Implementing the Bank Holding Company Act: The Adjudicatory Procedures of the Federal Reserve Board" by Professor Alfred C. Aman, Jr., of Cornell University; "Federal Home Loan Bank Board Procedures for Determining Claims in Savings Association Liquidations," a study by Duke University Professor Lawrence G. Baxter; "The Bank Examination Process and Informal Enforcement Practices", a report by Professor Dennis Aronowitz of Boston University; and "Bank Failures, Risk Monitoring and the Market for Corporate Control", a study by Professors Jonathan R. Macey of Cornell University and Geoffrey P. Miller of the University of Chicago. The Conference has developed a liaison with various Senate and House banking committee Members and staff to encourage a more thorough study of these issues. We anticipate that the coming year will be one of even greater activity in the

Conference's study of the administrative law aspects of the government's regulation of financial services.

Federal Employee Grievance Procedures

At present, federal employees with employment related grievances have at least six different procedural avenues by which to seek redress. These include internal agency review of some grievances, such as suspensions, reprimands or denials of leave; formal appeal to the Merit Systems Protection Board (MSPB) for a wide range of adverse actions; union grievance procedures, including arbitration in some cases; informal EEO procedures, coupled with a right to seek review before the Equal Employment Opportunity Commission; so-called "mixed" appeals to the MSPB for grievances which include discrimination issues; and access to the Special Counsel for employees who are "whistleblowers" or allege certain prohibited personnel practices.

No attention has ever been given to the substantial overlap among, or redundancy within, grievance procedures. With the encouragement of the Domestic Policy Council, the Conference will undertake a systematic study of all employee grievance-type procedures with a view toward developing recommendations for rationalizing the process and providing for faster, less costly alternative dispute mechanisms while ensuring that the fundamental fairness of the employee grievance process is maintained. The target date for completion of the study is December, 1988.

Ethics in Government

The issue of ethics in government is a controversial one. Everyone favors the establishment and enforcement of a code of ethical conduct for government officials. In many cases, there is a clear consensus on what constitutes ethical or unethical activity. To apply Justice Stewart's famous phrase to a somewhat different context, "we know it when we see it." But it is not always easy to measure the costs and benefits of enhanced ethics enforcement, such as the imposition of additional disclosure requirements.

It has now been ten years since Congress, in the wake of the Watergate episode, enacted the Ethics in Government Act revising certain rules of conduct. Another Presidential transition approaches and the same issues are likely to arise about the impact of federal ethics laws on people coming into or leaving government service. Since the Conference is a nonpartisan agency, made up of both political and career government officials as well as distinguished members of the private sector, we believe we can approach the topic in a reasonably dispassionate manner.

The Conference has established a Special Committee on Ethics in Government to examine current issues and the need for reform of the Ethics in Government Act or related federal conflict of interest laws. The committee is chaired by Conference member Fred F. Fielding, and includes Deputy Attorney General Arnold I. Burns, Lloyd Norton Cutler, Alan B. Morrison, and Philip N. Truluck.

As an initial step in the process, the Conference sponsored a Working Conference on the Ethics in Government Act a few weeks ago, which was attended by approximately 40 ethics experts. The participants included current and former high-level government officials, several Members of Congress, former White House counsels, directors of the Presidential personnel office and the Office of Government Ethics, and representatives of the private bar and public interest groups. (See Appendix C for list of participants.)

The "roundtable" discussion on March 1 was not intended to produce agreement on specific changes to the law. Rather, we sought to explore the dimensions of issues related to the current law and its operation. It is expected, however, that the discussion will assist the Special Committee in developing recommendations on certain topics and proposing additional research on others. To assist the Conference in holding future meetings and developing future projects, a briefing book was commissioned covering issues and options in three areas (1) financial reporting and remedial requirements, (2) post-employment conduct, and (3) operation of the Office of Government Ethics. There was general agreement that the Administrative Conference could serve a useful educational role during the coming Presidential transition.

We have other ethics-related projects on our agenda as well. First, we shall study agency regulations concerning employee standards of conduct. Most federal agencies have published lengthy regulations governing their employees' standards of conduct. Although these standards differ to some extent depending upon the agencies' mission, they are relatively similar in many respects. Our study seeks to determine the feasibility of a uniform code of conduct and a guidebook covering the subject.

Second, we will attempt to ascertain the impact of the Ethics in Government Act requirements on the recruitment of Presidential appointees. There have been many assertions, but little concrete evidence, as to the negative impact of government ethics laws on recruitment of top officials. A feasibility analysis has been commissioned to determine whether an empirical study of this issue is possible. If the feasibility analysis produces a positive answer, the empirical study will be a key project in Fiscal 1989.

Health Care Regulation

The Conference has done considerable work in the area of health care regulation. In 1987, we studied the administration of the state-level disability benefit determination process as well as the role of the Social Security Appeals Council. Among other things, the Conference suggested that state agencies experiment with the use of face-to-face procedures at the initial determination stage. (Recommendation 87-6.) It also recommended that the Social Security Administration (SSA), as soon as feasible, restructure the Appeals Council in a fashion that redirects that institution's operation from an exclusive focus on processing individual cases toward an emphasis on system improvements. Such redirection would encourage the Appeals Council to enunciate guidelines for subordinate decisonmakers, conduct studies on SSA's cases and procedures, and provide policy recommendations to senior SSA officials (Recommendation 87-7). The Conference also examined the method by which the Health Care Financing Administration (HCFA) decides what aspects of medical care are covered by, and therefore reimbursable by, the Medicare program. The Conference generally urged HCFA to continue its recent efforts toward increased public participation in the decisional process (Recommendation 87-8).

Recent Conference studies of the social security disability process have led some to ask whether disability adjudications can be better performed by physicians rather than lawyers. Indeed, the Veterans Administration has a doctor on its decisional panel. A Conference project will explore ways to maximize the use of medical expertise in this highly litigious process.

The federal government relies heavily on private medical peer review organizations -- so-called PROs -- to perform various functions in the Medicare program, such as reviewing the quality of care delivered and sanctioning those doctors who have violated Medicare regulations. The role of the Department of Health and Human Services in sanctioning such doctors has become controversial. We shall examine this area.

Other Projects and Activities

Calendar year 1987 was a busy one for the Conference. We reviewed and approved more items -- twelve recommendations and one statement -- than in any previous year in the Conference's 20 year history. The Conference adopted five of these recommendations, plus the statement, at its Plenary Session in June of 1987, and seven additional recommendations at its December meeting. (A brief description of the recommendations is attached at Appendix D.)

Recommendation 87-1: Priority Setting and Management of Rulemaking by the Occupational Safety and Health Administration

Recommendation 87-2: Federal Protection of Private Sector Health and Safety Whistleblowers

Recommendation 87-3: Agency Hiring of Private Attorneys

Recommendation 87-4: User Fees

Recommendation 87-5: Assuring the Fairness and Acceptability of Arbitration in Federal Programs

Recommendation 87-6: State-Level Determinations in Social Security Disability Cases

Recommendation 87-7: A New Role for the Social Security Appeals Council

Recommendation 87-8: National Coverage Determinations Under the Medicare Program

Recommendation 87-9: Dispute Procedures in Federal Debt Collection

Recommendation 87-10: Regulation by the Occupational Safety and Health Administration

Recommendation 87-11: Alternatives for Resolving Government Contract Disputes

Recommendation 87-12: Adjudication Practices and Procedures of the Federal Bank Regulatory Agencies

Statement: Resolution of Freedom of Information Act Disputes

We expect Fiscal 1989 to be very busy as well. In addition to the three key areas of Congressional concern discussed earlier, the federal employee grievance machinery project recommended by the Domestic Policy Council, and the subjects of ethics and health care regulation, the Conference will continue to be involved in a variety of projects that have long been our bread and butter -- improving agency rulemaking and adjudication, rationalizing the judicial review of agency action, and enhancing access to public information.

A. Model Rules for Agency Adjudication

An important project which will carry over into Fiscal 1989 is an effort to develop a set of model rules for use in agency adjudications. At present, hearings are held before presiding officers, including administrative law judges, at scores of federal departments and agencies. Each agency has its own set of practice and procedure rules. To the extent that the conduct of hearings at these agencies presents similar procedural problems, it would be useful to private practitioners and presiding officers if there were some similarity in the rules of practice. To this end, I have appointed a working group to examine the feasibility of model rules of practice and procedure for use in formal adjudications before federal government agencies.

The working group is comprised of members and non-members of the Administrative Conference. Its Chairman is Alan W. Heifetz, Chief Administrative Law Judge, Department of Housing and Urban Development, and a member of the Conference. Judge Heifetz has been a presiding officer in cases at more than a dozen different federal agencies.

It is gratifying to the Conference that two Congressional staff members will share their expertise with the Working Group. Karen Kremer, Chief Counsel and Staff Director of the Senate Judiciary Subcommittee on Courts and Administrative Practice and Janet Potts, Counsel of the House Judiciary Subcommittee on Administrative Law and Governmental Relations have agreed to serve. (See Appendix E for the roster of Working Group members.)

B. Colloquy Series

We plan to continue the Colloquy series we instituted last year, which was eagerly greeted by ACUS members, Congressional Members and staff, federal officials and law professors. Noted Colloquy panelists have included D.C. Circuit Judges Abner Mikva, Kenneth Starr and Robert Bork; Congressman Benjamin A. Cardin; FCC Chairman Dennis Patrick; corporate executive Laurence Tisch; and Chief Judge Howard T. Markey of the Court of Appeals for the Federal Circuit. Colloquy topics have ranged from the role of legislative history in judicial interpretation to the question of the viability of broadcast deregulation. Our most recent colloquy earlier this month featured Transportation Secretary James Burnley and the issue of "Transportation Reregulation: Is There a Need for Mid-Course Correction?" We are tentatively planning an April Colloquy which will focus on administrative law issues in the 100th Congress, including the recently enacted "race-to-the-courthouse" law. (See Appendix F for a summary of Colloquy programs and participants.)

I should note that the Conference sponsored its first seminar on administrative law issues for Congressional staff members last November. We brought together a number of experts to discuss a wide range of administrative law issues of interest to the Congress. Approximately 100 Congressional staff members attended and we hope to make this program an annual event. (See Appendix G for a program outline.) As I will note later, this seminar is also part of the Conference's ongoing effort to be responsive to the information needs of Members of the Congress and their aides.

Implementation

The Conference has adopted over 100 recommendations and statements in its twenty years of existence. Many have been fully or substantially implemented. Some have become moot or were overtaken by time. Others, like our negotiated rulemaking and alternative dispute resolution recommendations, are key parts of our everyday agenda. I believe that three individual items are worthy of specific mention.

A. Race to the Courthouse

Congress enacted, and the President signed, legislation implementing our recommendation concerning the so-called "race to the courthouse." [Pub. Law 100-236, 100th Cong., 1st Sess. (1988)] Action on "race to the courthouse" legislation has been a high priority implementation item for the Conference since the December, 1980 adoption of Recommendation 80-5, "Eliminating or Simplifying the 'Race to the Courthouse' in Appeals from Agency Action." The goal of this recommendation is to simplify the selection of the proper court to review an agency order where petitions for review of the order are filed in more than one court of appeals.

The Administrative Conference recommendation was designed to remove the incentive to race by replacing the first-to-file rule with a system of random selection in any case where petitions for review of the same order are received by two or more circuits within ten days after the issuance of the order. In all other cases, the first-to-file rule would continue to apply. The Judicial Panel on Multidistrict Litigation will administer the random selection system and designate the circuit to hear the case from among those circuits in which petitions have been filed.

The Conference encouraged legislation in this area for a number of years and we are delighted that the Congress enacted such legislation which the President signed on January 8 of this year, (PL 100-236). Such a law will relegate the ignoble "race" to an archaic relic of the court system. I am also pleased that *The Washington Post* found the passage of the legislation sufficiently newsworthy to publish in its March 16 edition an "Op Ed" piece which I authored explaining the history of the legislation.

B. Freedom of Information Act

The President took executive action to implement one of our important recommendations in the area of the Freedom of Information Act (FOIA). As a result, private parties submitting confidential business information to an agency of the government may now enjoy greater protection from improper disclosure under the FOIA.

Agencies have discretion under the FOIA to withhold trade secrets and other confidential commercial or financial information obtained from private parties. However, persons who submit such information usually do not know when the agency is considering disclosure, and thus have no timely opportunity to object. The Conference recommended that Congress amend the FOIA to provide such an opportunity and also suggested aids to identify confidential information at the time it is submitted. Last year, President Reagan signed Executive Order 12600 which requires executive branch agencies to establish procedures to notify persons who submit trade secrets and other private data if it appears that the agency may have to disclose this information to someone requesting it under the FOIA. The order establishes safeguards proposed by the Administrative Conference in Recommendation 82-1 (1 CFR §305.82-1).

C. Whistleblower Recommendation

A third Conference effort, although still inchoate, took a major step this year in the progression from recommendation to reality. Conference Recommendation 87-2: "Federal Protection of Private Sector Health and Safety Whistleblowers" was noted by Senator Howard Metzenbaum when he introduced S. 2095, the "Uniform Health and Safety Whistleblower Protection Act," on February 23. While the Conference did not take a position on the question of the reach or coverage of whistleblower legislation, the Conference staff attorney and consultant who shepherded this study were invited to share their insights with those responsible for drafting the procedural aspects of this legislation with a view toward uniformity of procedures for protecting whistleblowers throughout the government. The Conference will monitor the progress of the procedural aspects of this legislation.

Clearinghouse Activities and Special Projects

If resources permit, we plan to continue -- and perhaps expand -- our clearinghouse function and a variety of special projects.

A. User Fees

As part of this effort, the Conference last year continued its broad-gauged study of federal user fee programs. User fees (i.e., direct charges to persons for benefits they receive from the government) have increased in number and size in recent years as a result of Administration proposals and Congress' efforts to meet budget reduction goals. The Conference's project is being carried out with the cooperation of the Office of Management and Budget and the financial support of eight federal agencies -- the Customs Service, the Environmental Protection Agency, the Federal Communications Commission, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the Small Business Administration, and the Departments of Transportation and the Interior. A one-year fellowship has been awarded to a recent law school graduate to assist the Conference staff in its implementation efforts on Recommendation 87-4: User Fees. This fellow will conduct research and monitor user fee developments in federal agencies, court decisions and Congress.

In May, the Conference will host a symposium to educate federal agency and Congressional staff about user fee issues and to disseminate information about Conference user fee projects. Among the noted individuals who have already committed to participate are James C. Miller III, Director of the Office of Management and Budget; Inspector General Jim Richards and members of his Department of the Interior staff; Boston University Law School Professor Clayton Gillette; Emory University's Milton Kafoglis; and David Lewis, former official of Canada's Office of Auditor General (which is similar to our General Accounting Office).

The symposium will emphasize user fees in the areas of transportation, communication, energy and environment, recreation and resource use, and drug applications. The general discussion topics will include responsible user fee pricing; user fee disposition; and political realities facing user fee proposals. (See Appendix H for a tentative Symposium Program).

B. Executive Coordination and Control of Executive Branch Rulemaking

After examining nearly twenty years of steadily increasing Presidential control of agency rulemaking, the Conference's Committee on Rulemaking will study the numerous questions associated with Executive coordination and control of agency rulemaking. Close consideration will be given to the succession of Executive Orders on rulemaking administered by the Office of Management and Budget. We hope to develop findings and recommendations for future administrations. The Conference will build on the National Academy of Public Administration's 1987 report on the subject.

C. Revised and Updated Guide to Federal Agency Rulemaking

The 1983 Conference *Guide to Federal Agency Rulemaking* has been a best-seller at the GPO Bookstore and we have received numerous requests from agency attorneys for an update. As a consequence, and to take account of recent developments in this area such as Executive Order 12498 and several Supreme Court decisions, the Conference plans to publish a new edition in early 1989.

D. Resolution of FOIA Disputes

Professor Mark Grunewald of Washington and Lee University undertook a study for the Conference examining informal means for resolving Freedom of Information Act disputes. The study encouraged the voluntary use of informal alternative dispute resolution techniques as an alternative to FOIA litigation. [See Grunewald, *Administrative Mechanisms for Resolving Freedom of Information Act Disputes*, Final Report Submitted to the Administrative Conference of the United States, December 15, 1986.]

The House Government Operations Subcommittee on Government Information, Justice and Agriculture held hearings last December on FOIA alternative dispute resolution proposals. Conference consultant Grunewald and Thomas M. Susman, Chairman of the Conference's Committee on Judicial Review, testified before the subcommittee. Subcommittee Chairman Glenn English noted the Conference's contributions in his introductory remarks: "Perhaps the most important document before us is the 1986 study prepared by the Administrative Conference of the United States. The study outlines two different administrative mechanisms which might be used to resolve FOIA disputes. One is the Information Access Authority and the other is an FOIA ombudsman."

Informal Advice to Agencies and Congress

The staff of the Administrative Conference also provides advice, either in written form or orally, to large numbers of Congressional, department and agency personnel on a tremendous variety of administrative law questions.

In addition to providing specific advice to Congress, the Conference inaugurated what it anticipates will be a yearly seminar for Congressional staff, "An Introduction to

Administrative Law Issues." The seminar featured a synopsis of the basic principles of the administrative process by Conference Legal Counsel Gary Edles; a presentation on formal and informal rulemaking by Committee on Rulemaking Chairman Ernest Gellhorn, Regional Managing Partner of Jones, Day, Reavis & Pogue, and former Dean of the School of Law at Case Western Reserve University; an overview of civil money penalty programs by Research Director Jeffrey Lubbers; a summary of judicial review of agency decisions by Committee on Judicial Review Chairman Thomas M. Susman, a partner in Ropes & Gray and former General Counsel of the Senate Judiciary Committee; and an overview of the role and status of independent agencies by Conference member Paul R. Verkuil, President of the College of William and Mary and former Dean, Tulane University Law School.

In response to requests from Congressional staff, we are investigating the possibility of certification for continuing legal education (CLE) credit for future seminars. The next seminar probably will be scheduled during the Congressional election recess in November.

Statistics Gathering

I want to say a brief word about our statistics gathering responsibility. We have a statutory responsibility to collect statistics concerning activities under the Equal Access to Justice Act and report yearly to the Congress. In the past, the Conference also compiledhighly valuable caseload and individual case data in connection with formal proceedings at almost thirty agencies and departments. This government-wide inventory provided a unique reference for persons concerned with issues of procedural reform or agency organization and management. We were compelled by budget constraints to discontinue this function several years ago. However, this kind of recordkeeping is an extremely worthwhile endeavor and one which I would certainly like to renew if resources should ever permit. In my view, it is unfortunate that no one in the federal government is keeping statistics of this kind -- which could provide knowledge about a key aspect of the administrative process which would be helpful to Congressional and administrative decisionmakers.

Intercultural Exchange

Continuing its program of professional and intercultural exchange, the Administrative Conference hosted a half-day meeting with a delegation of judges from the People's Republic of China (PRC). The group, led by Vice-President Gu Nianzu of the Shanghai High People's Court of the PRC, met with staff attorneys and federal agency representatives to discuss the American administrative state, trade issues and judicial roles within agencies, privatization of state enterprises and alternative means of dispute resolution. An exchange of ideas and presentation of different systems led to a very interesting and mutually informative session.

Earlier in the summer, Chairman Breger received a delegation of five officials from the U.S.S.R. who were interested in learning about the American system of administrative law. The group's visit to the United States was sponsored by the American Bar Association and several ABA officials accompanied the visitors. The delegation was led by the Minister of Justice Alexander Sukharev of the Russian Soviet Republic.

Other foreign guests meeting with the Conference staff have included the President of the Israel Bar Association, Mr. Jacob Rubin; Mr. Marc Labron, a member of the French Council of State; Justice Isaac Abban of the Court of Appeals of Ghana (Ghana's highest court); Judge Stephen Brobby of the High Court of Ghana (the trial court); and Mr. Christian Kohlor, an official of the government of Ghana who is an authority on judicial training.

Congress has recognized the importance of this intercultural exchange role by providing express statutory authority to use a small portion of our budget -- not more than $1000 -- for official representational expenses for foreign dignitaries. Although our intercultural exchange effort takes very little time and involves very little Conference expense, our foreign guests seem genuinely appreciative of the opportunity to discuss problems of mutual interest in more or less an academic setting. I believe the Conference is building an important bridge to key leaders of foreign countries.

Conclusion

I welcome the varied roles which the Administrative Conference performs in response to Congressional direction or the suggestions of others interested in the administrative process. We have accomplished quite a lot in the past year and I look forward to an equal or even greater level of achievement in Fiscal 1989.

I would like to leave the subcommittee with three particular thoughts about our Fiscal 1989 budget request. First, the President's request represents a continuation of our Fiscal 1988 final budget figure. Hence, we fully expect to maintain our current level of effort with this proposed budget. Indeed, we expect to produce more work in Fiscal 1989 for what will be, in real terms, a little less money.

Second, the Conference receives tremendous value from the expertise contributed by its members. One of the strengths of our agency is the diversity of geographic background and opinion which our members and project consultants bring with them. The principal "cost" to the taxpayer for this expertise is the reimbursement of travel expenses. Perhaps in contrast with other agencies, our travel budget is used in large measure to enhance our ability to attract individuals from outside the Washington area.

Finally, the Administrative Conference's work often results in considerable savings to the government and to the citizens who seek to use the administrative processes in their dealings with the government. I think of our budget in the nature of "seed money," which is likely to be repaid in enhanced efficiencies throughout the government.

It continues to be an exciting time to be in the administrative law field and I am honored to be leading the Administrative Conference as we embark upon new and, at times, uncharted paths. Our mission remains intellectually satisfying and will significantly improve the administrative process by promoting fairness for citizens and litigants and greater efficiency of government agencies.

Mr. Chairman and members of the Subcommittee, this concludes my prepared testimony. I thank you for your attention. We stand ready to respond to any questions.

PROGRAM AND FINANCING
(in thousands of dollars)

Identification code 95-1700-0-1-751		19 87 actual	1988 estimate	1989 estimate
	Program by activities:			
00.01	Direct program----------------	1,481	1,865	1,865
01.01	Reimbursable program---------	235	50	50
	Financing:			
11.00	Offsetting collections from Federal funds--------------	-235	-50	-50
25.00	Unobligated balance lapsing--	2	-	-
39.00	Budget authority:	1,483	1,865	1,865
	Budget authority:			
40.00	Appropriation----------------	1,483	1,865	1,865
	Relation of obligations to outlays			
71.00	Obligations incurred, net----	1,481	1,865	1,865
72.40	Obligated balance, start of year------------------------	484	633	712
74.40	Obligated balance, end of year	-633	-712	-712
90.00	Outlays-------------------	1,332	1,786	1,865

OBJECT CLASSIFICATION
(in thousands of dollars)

Identification code 95-1700-0-1-751		1987 actual	1988 estimate	1989 estimate
	Direct obligations:			
	Personnel compensation:			
11.1	Full-time permanent----------	671	869	887
11.3	Other than full-time permanent--------------------	143	111	116
11.5	Other personnel compensation-	15	15	15
11.9	Total personnel compensation---	829	995	1,018
12.1	Personnel benefits: civilian---	95	109	111
21.0	Travel and transportation of persons----------------------	43	72	72
23.1	Standard level user charges---	156	203	206
23.2	Communications, utilities and other rent--------------------	80	85	85
24.0	Printing and reproduction------	97	76	76
25.0	Other services------------------	90	270	~~252~~
26.0	Supplies and materials----------	39	40	40
31.0	Equipment-----------------------	50	15	5
99.0	Subtotal, direct obligations-	1,479	1,865	1,865
99.0	Reimbursable obligations--------	235	50	50
99.9	Total obligations--------------	1,714	1,915	1,915

DETAIL OF PERMANENT POSITIONS

95-1700-0-1-751	1987 actual	1988 estimate	1989 estimate
Executive Level II	1	1	1
Subtotal	1	1	1
ES-4	3	3	3
Subtotal	3	3	3
GM-15	1	2	2
GM-14	1	1	1
GS-14	3	3	3
GS-13	1	1	1
GS-12	-	2	2
GS-9	1	-	-
GS-8	1	2	2
GS-7	3	3	3
GS-5	1	1	1
Subtotal	12	15	15
Total permanent positions	16	19	19
Unfilled positions, end of year	2	-	-
Total permanent employment, end of year	14	19	19

AVERAGE GRADES AND SALARIES

Identification code 95-1700-0-1-751	1987 actual	1988 estimate	1989 estimate
Average SES salary	$73,400	$73,400	$73,400
Average GS grade	10.59	10.93	10.93
Average GS salary	$36,787	$38,001	$38,001

PERSONNEL SUMMARY

Identification code 95-1700-0-1-751	1987 actual	1988 estimate	1989 estimate
Total number of full-time permanent positions	18	19	19
Total compensable workyears: Full-time equivalent employment	21	23	23

APPENDIX A

POTENTIAL ADR PROJECTS

- o Undertake intensive training and outreach activities in targeted areas of federal activity to increase agency employee's ADR skills and to enhance familiarity and acceptance of consensual alternatives among agencies and those who deal with them regularly. We have begun to do this in the contract claims area, but the Conference hopes to go further to sponsor (1) training courses, practical seminars and outreach activities focused on contract, personnel environmental and other particular kinds of governmental controversies, and (2) development of agency dispute resolution policies, rules and model procedures. Added funding would help us develop curricula, conduct appropriate training activities, and create guides and other written materials.

- o Develop and maintain the first roster of ADR neutrals generally available for use in resolving federal agency disputes. The roster would include dispute resolution professionals, qualified government employees, and distinguished persons willing to take on some government cases. Subcategories within the roster would focus on contract minitrials, environmental enforcement, and other areas.

- o Publish our *Sourcebook on Negotiated Rulemaking* as well as other dispute resolution publications. The former, which follows our extremely successful Sourcebook: *Federal Agency Use of Alternative Means of Dispute Resolution*, would be the first volume to offer practical guidance to agencies in implementing this technique. Other volumes would deal with resolving government contract disputes, legal issues in agency use of arbitration in various contexts, and environmental enforcement uses for ADR.

- Develop and administer a series of monthly roundtables on agency uses of ADR. The roundtables would bring together line officers of the government, federal personnel with ADR experience, academics, and private sector experts to explore implementation issues of general interest, new developments, and practical concerns in using ADR. The include legal issues in using the various kind of ADR; practical advice on logistical or drafting issues in minitrials or negotiated rulemaking; problems in finding and hiring mediators and other ADR experts; methods for reducing concerns over Congressional, intra-agency or other oversight of negotiated decisions and ADR generally; model confidentiality regulations; and other issues in educating potential ADR participants. Resulting improvements to agency procedures make the effort worthwhile.

APPENDIX B

1 CFR § 305.87-12

Recommendation 87-12

Adjudication Practices and Procedures of the Federal Bank Regulatory Agencies

Adopted December 18, 1987

The five federal agencies that regulate the activities of depository institutions[1] have broad statutory enforcement authority, including the power to issue cease-and-desist orders, impose civil money penalties, or order the suspension and removal of officers. Such enforcement actions ordinarily allow the target of the proposed sanction to request a formal APA hearing before an administrative law judge.

In recent years, enforcement actions taken by the bank regulatory agencies have increased markedly, although the preponderance of these actions are taken without a formal hearing -- based on consent agreements or waivers of formal hearing. The current level of formal hearings has, however, reached the point where attention should be paid to the procedures and practices of the bank regulatory agencies in this regard.

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[1] The term "depository institutions" refers to commercial banks, savings banks and savings and loan associations, and credit unions. The five agencies are the Office of the Comptroller of the Currency (in the Department of the Treasury), the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board (including the Federal Savings and Loan Insurance Corporation), and the National Credit Union Administration. In the aggregate they will be referred to as the "bank regulatory agencies."

Three basic concerns have emerged from an evaluation of the formal hearing procedures of the bank regulatory agencies, which may be summarized as the need for: (1) consistency and greater uniformity in the agencies' implementation of shared statutory responsibilities, (2) greater accessibility of agency decisions and the basis for decisions, and (3) more efficient use of administrative law judges.

Although the Conference study did not specifically address the need for change in the division of regulatory responsibilities among the five agencies, it did conclude that the interpretation of identical or similar regulatory authorities does not appear to be inconsistent. By contrast, the formal hearing procedures of the agencies vary significantly, both in their specific provisions and in their level of detail. Moreover, all of the regulations are lacking in detail on rules concerning prehearing practice, discovery and evidence. Given the similar statutory bases for these enforcement actions, the five agencies jointly should be able to develop substantially similar rules of procedure and practice for formal enforcement proceedings.

Bank Regulatory Agency Procedures

There is currently limited publication or public dissemination of the bank regulatory agencies' enforcement decisions. This hinders counsel in advising and representing clients and makes it difficult for administrative law judges (who currently are all on loan from other agencies) to apply the complicated statutes and regulations that are involved. This situation would be remedied by improved availability or publication of appropriately redacted agency decisions. Such publication would heighten public awareness of enforcement actions which now are described only in aggregate data published in annual reports. This may be especially beneficial because the agencies have not regularly supplemented or clarified their enforcement policies through interpretive rules or policy statements.

None of the five agencies employs administrative law judges (ALJs) to hear enforcement cases. Rather, they rely exclusively on the interagency ALJ loan program administered by the Office of Personnel Management (OPM) to furnish them with needed ALJs. OPM has attempted to accommodate agency concerns by providing lengthier loan periods and repeat loans. Nevertheless, the system seems to produce needless discontinuity and inefficiency. To improve this situation, the bank regulatory agencies should, in consultation with OPM, consider the advisability of an arrangement by which a pool of administrative law judges could handle all bank regulatory agencies' formal adjudications--subject to any agency's decision to have its own ALJs, should the caseload warrant. If so, ways should be explored to effect such an arrangement. For example, one or more full-time judges could be hired by one of the agencies, which would then serve as the lending agency for the others.

Finally, the Conference urges the agencies to explore whether a pre-complaint procedure (modeled on that used by the Securities and Exchange Commission) would be appropriate in their individual circumstances and should be established. This would enable targets of enforcement investigations to file a submission to the agency head or other agency official charged with the responsibility to initiate formal enforcement proceedings, before such an action is initiated.

RECOMMENDATION

The bank regulatory agencies should take the following actions to improve their formal adjudicatory processes, with respect to regulatory enforcement actions:

1. Uniform Rules of Procedures. The agencies should develop, so far as feasible, a uniform set of rules of practice and procedure for formal adjudications, including more explicit provisions covering prehearing practice and discovery rules[2] and the receipt of evidence.[3]

2. Availability of Decisions. The agencies should make available through regular publication, or other accessible means of dissemination, the appropriately redacted decisions and accompanying opinions issued in formal enforcement adjudications.

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[2] See ACUS Recommendation 70-4, Discovery in Agency Adjudication, 1 C.F.R. §305.70-4.

[3] See ACUS Recommendation 86-2, Use of the Federal Rules of Evidence in Agency Adjudications, 1 C.F.R. §305.86-2.

3. Policy Articulation. The agencies should supplement and periodically clarify enforcement policies set forth in adjudicative opinions by regularly articulating their enforcement policies through rules of general applicability (including interpretive rules) and policy statements.

4. Administrative Law Judges. The agencies, in consultation with the Office of Personnel Management, should consider the advisability of an arrangement by which a pool of administrative law judges could handle all bank regulatory agencies' enforcement adjudications required to be conducted according to the Administrative Procedure Act, and, if so, should explore ways to develop such an arrangement.

5. Precomplaint Notice. The agencies should explore, in their circumstances, the utility of establishing a formal or informal procedure to allow targets of investigations an opportunity to file a submission with the appropriate agency official before official action is taken to initiate an enforcement proceeding.

APPENDIX C

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APPENDIX D

Recommendation 87-1: Priority-Setting and Management of Rulemaking by the Occupational Safety and Health Administration

The Conference urged OSHA to establish a permanent "regulatory priorities committee" to develop and maintain priorities for its health and safety standards. In addition to this rigorous and open priority-setting process, the Conference urge OSHA to initiate new management approaches, including an action-tracking system, team approach and options review process.

The recommendation was based on a report by Professors Thomas McGarity of the University of Texas and Sidney Shapiro of the University of Kansas, who are continuing their study of alternative approaches to OSHA rulemaking.

Recommendation 87-2: Federal Protection of Private Sector Health and Safety Whistleblowers

The Conference surveyed federal statutes that protect private sector employees from reprisals for disclosing health or safety violations. Although many, but not all, such complaints are assigned for investigation and adjudication to the Department of Labor, the statutory provisions governing such cases are inconsistent and lack uniformity. The Conference urged Congress to enact legislation for the handling and resolution of whistleblowers' complaints and made specific suggestions for increasing the uniformity and effectiveness of such protections.

Recommendation 87-3: Agency Hiring of Private Attorneys

The Conference considered the highly publicized use by federal agencies of often high-priced private attorneys to do legal work for them. A survey of such usage indicated that many of these cases involved banking agencies liquidating failing institutions, where public funds are not used to pay legal fees. Nevertheless, the Conference decided that this practice was sufficiently widespread and raised enough concerns to warrant attention. It urged agencies to look first in-house, to develop guidelines for hiring outside counsel, to use appropriate competitive procedures in any hiring, to retain control over the performance of outside counsel, to prepare an annual report on such activity, and to apply conflict-of-interest and other ethics restrictions to such attorneys that they do hire.

Recommendation 87-4: User Fees

This recommendation resulted from a large-scale, agency-funded survey and analysis of agency authority and practice in assessing charges for government services. The recommendation does not attempt to address whether user fees are or are not good policy. Rather it sets forth general principles that guide the setting and implementation of fees.

Recommendation 87-5: Arbitration in Federal Programs

This recommendation was a follow-up to the Conference's call in 1986 (Recommendation 86-3) for greater use of alternative means of dispute resolution by federal agencies. In Recommendation 87-5, the Conference focused specifically on agency use of arbitration because that is the one such technique that involves the use of outside decision-makers who make decisions binding upon the government. This raises potential concerns about program administration, delegation of governmental duties to private persons and fairness to the parties. The recommendation recognizes these concerns and gives procedural advice to Congress and the agencies on how to provide executive oversight, preserve judicial functions and ensure quality decisions, and maintain legality and fairness, while preserving the potential benefits of arbitration.

Recommendation 87-6: State-Level Determinations in Social Security Disability Cases

The Conference encourages the Social Security Administration to continue its demonstration projects using face-to-face hearing procedures for state-level determinations. However, the Conference concludes that full implementation of evidentiary hearings (for other than continuing disability review cases) or personal interviews (either at the initial or reconsideration stage) should await the Department of Health and Human Services' final reports on the current experiments. The recommendation goes on to suggest specific factors that should be included in the Department's evaluation and in future decisions to implement new procedures.

Recommendation 87-7: A New Role for the Social Security Appeals Council

The Conference recommendation is aimed at relieving the Social Security Appeals Council of the "tyranny of the caseload" so that it can take advantage of its position as the administrative review body to detect emerging problems, develop policies to deal with those problems, and to promote consistency in lower-level decisionmaking. Therefore, the Conference recommends that the Appeals Council be given authority to reduce its caseload and to have, as its primary mandate, the responsibility to develop and implement adjudicatory principles and decisional standards for disability determination process. The recommendation sets forth specific structural reforms that are needed to accomplish this goal, including the discretionary power to deny review of appeals from ALJ decisions; new Appeals Council decisionmaking procedures; and higher salaries and greater support for Appeals Council members.

Recommendation 87-8: National Coverage Determinations Under the Medicare Program

The Conference recommends that the Health Care Financing Administration (HCFA) continue its recent steps toward publicizing and inviting comment on the procedures and decisional standards it uses for making Medicare coverage determinations. The recommendation also sets forth elements that HCFA should include in any national coverage determination procedures and criteria. These include identification of coverage issues that will be left to the decision of contractors and HFCA regional offices; the opportunity for public comment prior to promulgation of national coverage determinations (or after promulgation if pre-promulgation comment is infeasible); and internal management controls for processing requests for petitions for national coverage determinations. The Conference also recommends that HCFA consider use of negotiated rulemaking in appropriate situations, and asks Congress to reconsider recent statutory restrictions placed on administrative and judicial review of national coverage determinations.

Recommendation 87-9: Dispute Procedures in Federal Debt Collection

The Debt Collection Act of 1982 provides two basic forms of federal debt collection by offset: "salary" offsets, which require an adversarial proceeding, and "administrative" offsets, which are subject to less stringent procedural protections. Although concluding that no major changes are needed in the Act or its implementation, the Conference recommended several adjustments. First, the General Accounting Office, the Department of Justice, and the Office of Personnel Management are urged to revise the applicable standards to reduce the formality of the procedures used for handling routine adjustments of pay and travel allowances, such as those caused by computer errors, miscalculations, and similar mistakes. In cases involving administrative offset, the Conference endorses informal review processes, but recommends that employees who make initial claims determinations generally should be excluded from participating in such reviews. In addition, the recommendation states that adversarial fact finding may be desirable in administrative offset cases where a debtor raises complex legal or factual issues or where assessments of credibility are required, even though such procedures are not required by the Debt Collection Act. The recommendation also urges agencies to take steps to make offset dispute procedures known and accessible to debtors with limited ability to present their case in writing, and it suggests specific techniques that agencies may incorporate into their offset procedures to make them more effective. Finally, the Conference recommends that Congress make clear that government acquisition contracts are not covered by the Debt Collection Act, and that the government retains the right of offset to collect debts in such cases.

Recommendation 87-10: Regulation by the Occupational Safety and Health Administration

The Conference in this recommendation urged OSHA to use regulatory options in addition to its traditional hazard-by-hazard rulemaking. Specifically, OSHA is encouraged to attempt to update selected Table Z national consensus standards on a generic basis. OSHA adopted these standards in 1971, based on then-existing industry norms, and they have not been updated since. In addition, the Conference suggesed that OSHA consider rulemaking to develop industry-wide, multi-hazard, and generic work practice standards in appropriate situations. OSHA also is asked to continue its use -- in appropriate cases -- of performance standards, information disclosure, and negotiated rulemaking procedures. Other alternatives addressed by the recommendation are the use of advisory committees and advance notices of proposed rulemaking. The need for a regulatory plan to identify candidates for the various alternatives also is addressed in the recommendation.

The Conference's recommendation recognizes that OSHA's administrative reforms may be frustrated or insufficient. Therefore, the recommendation suggests specific statutory changes that Congress should consider in that event. These include: (1) providing by statute for an update of the national consensus standards as incorporated into OSHA's regulations; (2) amending the Occupational Safety and Health Act to vary OSHA's burden of justifying safety and health standards, depending on the degree of risk posed by a hazard and the level of control required by the standard; (3) replacing the Act's deadlines with more realistic agency-set deadlines; (4) removing the Act's restrictions on standards advisory committee membership, and (5) amending the Act's judicial review standard.

Recommendation 87-11: Alternatives for Resolving Government Contract Disputes

The Conference recommends numerous measures aimed at increasing the use of alternative dispute resolution (ADR) techniques -- such as arbitration, minitrials, mediation and settlement judges -- in resolution of government contract disputes. Foremost among these are recommendations (1) that Congress amend the contract Disputes Act to make clear that contractors and the government may agree to use arbitration and other ADR procedures for resolving claims related to agency contracts, and (2) that the President issue an executive order encouraging voluntary use of ADR procedures to resolve contract disputes. The Office of Federal Procurement Policy and agencies also are urged to take steps to create an atmosphere favoring use of ADR procedures.

The recommendation contains separate sections setting forth advice on finding neutrals to aid in resolving disputes; developing minitrial procedures; use of mediators by boards of contract appeals; appointment of settlement judges by boards of contract appeals; the appropriate documentation and oversight of agreements reached through ADR procedures; and agency training and outreach programs.

Recommendation 87-12: Adjudication Practices and Procedures of the Federal Bank Regulatory Agencies

Five bank regulatory agencies (the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, and National Credit Union Administration) exercise similar regulatory authority, including authority to bring enforcement actions against members of the banking industry. The Conference's recommendation addresses the formal hearing procedures of these agencies, with the overall objective of producing greater uniformity in, and accessibility to, the decisions in these enforcement adjudications.

The recommendation calls upon the bank regulatory agencies to develop, so far as feasible, uniform rules of practice and procedure; to publish or otherwise make available their opinions and decisions in enforcement cases; to regularly articulate in rules or policy statements any enforcement policies that have been developed in enforcement adjudications; to consider whether a pool of administrative law judges might be developed to serve the agencies; and, finally, to consider whether they should establish a pre-complaint notification procedure (similar to that used by the Securities and Exchange Commission).

Statement: Resolution of Freedom of Information Act Disputes

The Conference sponsored a study of the resolution of disputes arising out of Freedom of Information Act requests that are not handled to the requester's satisfaction at the agency level. Specifically, it examined the establishment of an independent administrative tribunal to resolve these disputes, either through formal hearing procedures or informal conciliation. Alternatively, it considered the appointment of an ombudsman within the Department of Justice to review and report on agency FOIA disputes, mediate FOIA disputes, and/or provide informal assistance to persons requesting information from agencies under FOIA.

Although available data did not clearly establish a need for either of these specific mechanisms for handling FOIA disputes, the Conference believed that greater reliance on informal approaches to FOIA dispute resolution could result in more effective handling of some FOIA disputes without resort to court litigation.

APPENDIX E

ADMINISTRATIVE CONFERENCE CREATES MODEL RULES WORKING GROUP

Administrative Conference Chairman Marshall J. Breger has announced the formation of a working group to study the feasibility of model rules of practice and procedure for use in formal adjudications before federal government agencies.

At present, hearings are held before presiding officers, including administrative law judges, at scores of federal departments and agencies. Each agency has its own set of practice and procedure rules. To the extent that the conduct of hearings at these agencies presents similar procedural problems, however, it would be useful to private practitioners and presiding officers if there were some similarity in the rules to practice. The working group will examine whether the development of model rules is practical and, if so, will attempt to draft such rules.

The working group is comprised of members and non-members of the Administrative Conference. Its chairman is Alan W. Heifetz, Chief Administrative Law Judge, Department of Housing and Urban Development, and a member of the Conference. Judge Heifetz has been a presiding officer in cases at more than a dozen different federal agencies.

Other members of the Working Group are: David S. Davidson, Deputy Chief Administrative Law Judge, National Labor Relations Board; Neil Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, and Vice Chairman of the Conference's Committee on Governmental Processes; Zona F. Hostetler, a lawyer in private practice, and former Director, D.C. Bar Public Interest Office; Christine N. Kohl, Member, Atomic Safety and Licensing Appeal Panel, Nuclear Regulatory Commission, and former Chief Staff Counsel, United States Court of Appeals for the District of Columbia Circuit; Steven L. Lefelt, Deputy Director and Administrative Law Judge, Office of Administrative Law, State of New Jersey; Richard J. Leighton, a lawyer in private practice, and Chairman of the Conference's Committee on Adjudication; Jerome Nelson, Administrative Law Judge, Federal Energy Regulatory Commission, and former General Counsel, Nuclear Regulatory Commission; William R. Robie, Chief Immigration Judge, Department of Justice; Arthur G. Sapper, a lawyer in private practice, and former Deputy General Counsel, Occupational Safety and Health Review Commission; John M. Vittone, Associate Chief Administrative Law Judge, Department of Labor; and Carole Wilson, Associate General Counsel, International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, AFL-CIO.

Karen Kremer, Chief Counsel and Staff Director, Subcommittee on Courts and Adminstrative Practice, Senate Committee on the Judiciary, and Janet Potts, Counsel, Subcommittee on Administrative Law and Governmental Relations, House Committee on the Judiciary, will serve as *ex officio* members of the Working Group.

Professor Michael P. Cox, University of Oklahoma Law School, will serve as Reporter for the Working Group and consultant to the Conference.

APPENDIX F

COLLOQUY PROGRAMS AND PARTICIPANTS

February, 1987	The Role of Legislative History in Judicial Interpretation Judges Abner J. Mikva and Kenneth W. Starr of the Court of Appeals for the District of Columbia Circuit.

May, 1987	Is There a Need to Create Specialized Administrative Review Courts to Alleviate the Overload on Article III Courts? Judge Robert H. Bork of the Court of Appeals for the District of Columbia Circuit and Professor Lawrence Sager of the New York University Law School
July, 1987	Should Congress Create an Independent Corps of Administrative Law Judges? Congressman Benjamin L. Cardin; Chief Judge Howard T. Markey of the U.S. Court of Appeals for the Federal Circuit; and Professor Victor Rosenblum of the Northwestern University School of Law
November, 1987	Broadcast Deregulation: The Reagan Years and Beyond Jonathan D. Blake, former President, Federal Communications Bar Association; Dennis Patrick, Chairman, Federal Communications Commission; Laurence A. Tisch, President and CEO, CBS, Inc.; and Richard E. Wiley, Former Chairman, Federal Communications Commission
March, 1988	Transportation Deregulation: Is There a Need for a Mid-Course Correction? James H. Burnley, IV, Secretary, Department of Transportation; Cornish Hitchcock, Legal Director, Aviation Consumer Action Project and Senior Staff Attorney, Public Citizen Litigation Group; and Michael E. Levine, Professor, Yale University School of Management and former CEO, New York Air.
April, 1988	Administrative Law Issues in the 100th Congress (Congressman Dan Glickman and other participants to be confirme

APPENDIX G

AN INTRODUCTION TO ADMINISTRATIVE LAW ISSUES IN THE 100th CONGRESS

A Seminar Presented By The Administrative Conference of the United States

Monday, November 2, 1987 2:00-5:00 PM

The Gold Room - 2168 RHOB

2:00 PM I. INTRODUCTION

Marshall Breger, Chairman
Administrative Conference of the United States

A. Overview and History

B. Administrative Law Issues Confronting Congress

2:25 PM II. BASIC PRINCIPLES OF THE ADMINISTRATIVE PROCESS

Gary J. Edles, Legal Counsel
Administrative Conference of the United States

A. Powers and Responsibilities of Administrative Agencies

B. Distinction between Rulemaking and Adjudication

C. The Hearing Process

D. Impartial Decisionmaking

2:55 PM **III. RULEMAKING: FORMAL AND INFORMAL**

Ernest Gellhorn, Chairman, Committee on Rulemaking
Administrative Conference of the United States
Partner: Jones, Day, Reavis & Pogue; Washington, DC

A. Interpretive Rules v. Substantive Rules

B. Notice and Comment

C. Reagan Administration Impact: OMB Review of Rules

3:25 PM **BREAK/REFRESHMENTS**

3:35 PM **IV. CIVIL MONEY PENALTY PROGRAMS**

Jeffrey Lubbers, Research Director
Administrative Conference of the United States

A. Civil Penalty Procedures: Agency Imposition v. Court Collection Proceedings; ACUS Model Statute

B. Reconciling two key Supreme Court decisions: *Tull* and *Atlas Roofing*

C. ALJs: Fair Housing Legislation / ALJ Corps Bill

3:55 PM **V. JUDICIAL REVIEW OF AGENCY DECISIONS**

Thomas M. Susman, Chairman, Committee on Judicial Review
Administrative Conference of the United States
Partner: Ropes & Gray; Washington, DC

A. Scope of Judicial Review

B. Forum/District Court v. Court of Appeals

C. Race to the Courthouse (ACUS Recommendation)

D. Preclusion of Review (Veterans Administration Bill)

4:25 PM **VI. ROLE AND STATUS OF INDEPENDENT AGENCIES**

Paul R. Verkuil, Public Member
Administrative Conference of the United States
President: The College of William and Mary in Virginia

4:55 PM **VII. CONCLUDING REMARKS**

APPENDIX H

Administrative Conference User Fee Symposium
Program Plan March 4, 1988

SYMPOSIUM OBJECTIVE: To educate federal agency and Congressional staff about user fee issues and to disseminate information about Conference research on user fees. Intended size: not to exceed 150 (due to space constraints).

SYMPOSIUM DATE AND LOCATION: May 3, 1988 at National Press Club, 14th and F Streets, N.W. (near Metro Center), from 8:45 am to 5:30 pm. Morning and afternoon sessions in the Club's main lounge; luncheon in ballroom; closing reception in lounge/terrace.

MAIN SPEAKERS:

confirmed luncheon speaker--James C. Miller III
morning keynoter possibilities--Kenneth (Buddy) MacKay (D-Fla). George Miller (D-Cal). Charles Schumer (D-NY). Willis (Bill) Gradison (R-Oh). Fred Upton (R-Mich)
morning working sessions--fee applicability and levels, with first segment a case study-- tentatively. how user fees should be applied to the pesticide approval process--with contrasting perspectives from. preferably, EPA's John Moore and a trade association representative, as moderated by Clayton Gillette; second segment on cross cutting issues with Emory University's Milton Kafoglis and CEA's Thomas Gale Moore as lead speakers. with an emphasis on user fees as a regulatory tool and as a complement to privatization.
afternoon working sessions -- (a) Interior's Inspector General Jim Richards and staff reporting on results of user fee audit now in progress under auspices of the President's Commission on Integrity and Efficiency (PCIE); audit covers Interior. Agriculture. HHS. Commerce and GSA; and (b) collection and disposition practices. with David Lewis (formerly with Canada's Office of Auditor General. counterpart of our GAO) and CBO's Everett Ehrlich as lead speakers. and an emphasis on questions such as those that arise with the aviation trust fund.

Other speakers/panelists to be added to above. drawn from:

(a) DOT's James Burnley or Janet Hale. FCC's Peter Pitsch, Brookings' Alice Rivlin. Heritage Foundation's Stuart Butler or Stephen Moore. Urban Institute's Rudy Penner, Stuart Eisenstat. American University's Thomas Husted;

(b) staffers from EPA. FERC. FCC. OMB. DOI. DOT. NRC. and corresponding Hill committee staff;

(c) trade associations such as Air Transport Association (James Landry).

SUBSTANTIVE FOCUS

User fee areas to be emphasized:
- transportation
- communications
- energy & environment
- recreation & resource use

Topics to be covered during the day (not necessarily in this sequence or structure):

A. ACUS' user fee recommendations and an overview of subsequent user fee developments.

B. Responsible user fee pricing--central issues in deciding on the size of a user fee. What costs are commonly recovered through user fees? What beyond cost recovery influences user fee levels? What mandated services warrant fees? How will OMB's new user fee guidance affect agencies that collect fees? Experience of agencies (especially FERC. NRC and FCC) in conforming to user fee requirements of the Omnibus Budget Reconciliation bills.

C. User fee disposition--where the money goes. and where should it go? What problems arise in collecting fees and in tracking cash flow. In what situations and for what reasons is revenue earmarking sensible? How can agencies recover their costs of implementing user fees?

D. Political realities facing user fee proposals. Prospects for new and increased user fees. Where are they least and most feasible? Why? Examine cases such as USDA meat inspections; EPA pesticide applications; Coast Guard recreational boaters; DOI park entrance fees.

FORMAT AND SCHEDULE: The morning session to begin at 9 with an initial 30 minutes for introduction and overview. At 9:30. Congressman ______ would have

30 minutes to provide a Hill perspective on user fees. Following a 15 minute break, the main morning working session would focus on fee applicability and levels. It would be divided into two segments, the first (10:15-10:45) examining as a case study the issues that arise in applying user fees to one particular area, probably EPA pesticides. An EPA official and a trade association spokesperson would present their contrasting views, with Clayton Gillette serving as moderator. The second segment (10:45-12) would have two speakers, Milton Kafoglis and Thomas Gale Moore (20 minutes each) and three panelists (5 minutes each), who would take up cross-cutting issues that arise in setting fee levels and in deciding where fees should and should not be collected. The use of fees as regulators and in connection with privatization would receive particular attention. That should leave 20 minutes for open floor discussion.

After lunch and Director Miller's luncheon remarks, we would hold two sessions separated by a 15 minute break. The first afternoon session would be on user fee audits. An hour (1:45 to 2:45) would be available for announcing and discussing the PCIE audit findings. The second afternoon session -- on fee collection and disposition practices and issues -- would have two speakers, David Lewis and Everett Ehrlich (20 minutes each) and three panelists (5 minutes each), allowing 20 minutes for open floor discussion. The moderator would have 15 minutes for wrap-up comments after final working session.

Detailed schedule:

8:45 - 9:00	Registration, coffee, pastries
9:00 - 9:10	Welcome/intro -- Chairman
9:10 - 9:30	Overview -- Hookins
9:30 - 10:00	Congressman ________
10:00 - 10:15	Coffee break
	Working session on fee apolicability and level--
10:15 - 10:45	first segment: pesticides EPA's___ & trade assoc.___, Gillette (moderator)
10:45 - 12:00	second segment: cross-cutting issues--Kafoglis & Moore, and panelists
12:00 - 12:10	Break
12:10 - 12:50	Luncheon
12:50 - 1:30	Luncheon speaker--James Miller and Q's & A's
1:30 - 1:45	Break
1:45 - 2:45	PCIE-IG user fee audit results Jim Richards, Harold Bloom & Alan Klein
2:45 - 3:00	Coffee break
3:00 - 4:15	Working session on collection & disposition-Lewis & Ehrlich & panelists
4:15 - 4:30	Wrap-up comments--Hopkins & Chairman
4:30 - 5:30	Reception

Speakers from FERC--Joseph Neubeiser-- and from NRC--Trip Rothschild--will be prepared to discuss their agencies' experience with user fees in response to Congressional requirements to step up their reliance on such fees. If EPA or Congressman falls through, will place in morning. Otherwise, will wedge into afternoon. Also want to add DOT to afternoon, and possibly DOI.

USER FEE SYMPOSIUM
REVISED PLANNING SCHEDULE

Invitations/program brochures		
Preliminary copy	February	19
Revised copy	March	11
400 name invitation list ready	March	11
500 sets ready (invit., brochures)	March	18
Mailings completed	March	25
Attendee confirmations		
Complete alphabetized list of confirmed attendees	April	22
Payment (#2) due Nat'l Press Club	April	22
Final arrangements	April	29
250 copies ready of updated programs		
Other handouts obtained from Conference		
Name tags ready for attendees and speakers		
Symposium	May	3

INTRODUCTION OF ASSOCIATES

Senator DECONCINI. Do you care to introduce the people that are with you?

Mr. BREGER. Yes; I am about to do so.

I am accompanied today by Gary Edles, our legal counsel; Jeff Lubbers, our Director of Research; and Daniel Mann, our Director of Administration.

I understand that you are kind enough to admit my written testimony for the record, therefore, saving my voice.

Let me, therefore, just go over with you briefly some of the activities of the Administrative Conference this year. I am sure you are familiar with the Conference and its function as an independent agency set up to promote research and reform in administrative procedures and governmental processes.

Our function is more than a think tank. If we merely produced reports and they were put on the library shelves, frankly, we would deserve a failing grade. Our effort is to choose studies carefully and work to implement them after they are approved by our plenary sessions. We impact upon the administrative process either by having agencies change their own regulations, by having the administration become involved in pushing for a certain reform, or in some cases, such as the recently enacted race-to-the-courthouse legislation which you cosponsored, in seeking statutory reform to improve the administrative process.

Last year Congress asked us to focus our attention on three areas: the area of immigration law procedures; the Government regulation of the financial services industry; and alternate dispute resolutions in Federal agencies. I want briefly to report to you on our work in those three areas.

In immigration we have commissioned three studies. One study is a review of the present legalization program. It will be coming out next week, so I am not in a position to tip my hand and tell you what it says, but we will have it immediately available to the Senate and to the House because we recognize that it is a very sensitive matter.

We also are planning, on April 12, a briefing for congressional staff on this study.

The second study is a study of what we call the second stage of the legalization program. Once you get your temporary card, you then have to go back through another administrative process to get your permanent resident card. We will be looking at the proposed procedures for that phase of the legalization process.

Happily, we are in a position to review that beforehand, so we might be able to suggest some improvements after looking at them from an administrative law perspective.

Our third study looks at the denial and approval of visa requests by consulate officials. At present, consulate officials have almost absolute discretion to approve or deny visa requests. In the worst case, if a consulate official wakes up with a headache, he might look somewhat less favorably on the request on his desk. We think this is an area worthy of investigation and we have begun a study in this area.

We are looking now to develop some other immigration studies, including asylum procedures.

In the area of regulation of financial services, we have commissioned five studies. One has been completed, a study of adjudication practices and procedures of the Federal bank regulatory agencies. We have looked at the procedures of the five banking agencies and we have proposed that they seek to develop uniform rules of procedures. Right now there is a balkanization of their procedures. We recommended they should make sure that their decisions are available through regular publication or otherwise. At present, in some instances, you have to subscribe to a very expensive service or spend hours going through the files to get their latest decisional material. Also, they should make clearer efforts to engage in policy articulation when they are making policies through adjudicative opinions.

These agencies, I might add, prefer to make policy wherever possible through adjudication rather than through rulemaking. We are concerned that the banking agencies don't have their own administrative law judges, they borrow them from other agencies. We suggested a process by which expertise can be built up by administrative law judges in the banking field so that they don't borrow them from HUD or HHS. We have looked at the precomplaint notice procedures of the SEC to see if they are applicable to the other agencies.

We have four more studies which should be completed during this year.

In the alternate dispute resolution area, we have continued our work in trying to engage in what we call consciousness raising.

Senator DECONCINI. Mr. Breger, let me interrupt you. I would like to ask a couple of questions on some of these studies and maybe this is a good place to do it.

Just the other day we had the Advisory Committee on Federal Pay testify before us, and I asked them why their pay recommendations are continuously ignored by the President and the President's other pay advisors, and even perhaps Congress.

Frankly, the same question comes to mind as to your agency. You make studies and I have looked at some of them, and they seemed very professional and very good, and you reach certain conclusions and you make certain recommendations for action.

Can you give us three or four examples of where your studies have resulted in recommendations that have been adopted by the agencies or other target groups in the last 6 years?

Mr. BREGER. Certainly, most recently if I could point to the race-to-the-courthouse legislation, which as I said was cosponsored by you, which passed this year in the Senate. It took 8 years to get this piece of good Government through. Everyone agreed that it was a good thing to do, but because it didn't have a lot of special interest groups——

Senator DECONCINI. When did you do the study on that?

Mr. BREGER. In 1981.

Senator DECONCINI. OK, give me another one.

Mr. BREGER. Our work in regulatory negotiations, which was done in 1985 and 1986, we developed the procedures for what is called reg-neg, negotiated rulemaking, and now at least a dozen agencies have developed the reg-neg program.

Senator DECONCINI. Similar to what your recommendations were.

Mr. BREGER. Yes, sir.

Senator DECONCINI. Can you give us one or two of those agencies?

Mr. BREGER. The EPA is the most well known, the Department of Transportation, and I can provide you with a fuller list.

Senator DECONCINI. Give me one more.

Mr. BREGER. Some of our proposals for the amendment of FOIA, Freedom of Information Act, to take into account problems of trade secrets have been encompassed in a recent Presidential executive order.

Senator DECONCINI. When was that study done?

Mr. BREGER. That study was about 5 or 6 years ago, but the executive order was this year.

Most recently, if I can talk about a recommendation we did this year?

Senator DECONCINI. Was the executive order based on your recommendations?

Mr. BREGER. In large part, yes. It didn't track it, but in large part.

Most recently, if I can give one more, our proposal for the procedural issues in the protection of whistleblowers has been incorporated in at least a recent bill on the subject.

Senator DECONCINI. Would you supply for the record, too, as long as we are on this subject matter, three or four examples where you feel the Administrative Conference work actually resulted in a savings to the Government?

Mr. BREGER. Certainly.

Senator DECONCINI. And how you justify that?

Mr. BREGER. Certainly.

If I could expand for a second on that point, I think you have raised really the crux of how we can better do implementation, and it is hard because we only have a carrot, we don't have a stick. We also have a resource allocation fund to do the kind of jawboning as well as education necessary for implementation takes a lot of time, you have to do it retail.

It is an area that we are conscious of and we are constantly working on.

Senator DECONCINI. Let me ask you another question. Do you publish an annual report?

Mr. BREGER. Yes, sir.

Senator DECONCINI. You do.

Mr. BREGER. We issue a report to the President every year.

Senator DECONCINI. It goes to the President every year, do we get a copy of that?

Mr. BREGER. I am almost certain you get a copy.

Senator DECONCINI. Does it have any summary of the recommendations or the studies that you have made that year, and any of them that might have been implemented that year or previous years?

Mr. BREGER. The annual report includes a list of that year's recommendations. It does not, except in general terms, provide an implementation analysis of what agencies have done to implement past recommendations.

Senator DECONCINI. We would appreciate—and your statement was very good on the number of studies you do—if you could relate to us what you believe the cost savings is, it would help us in evaluating your recommendations?

Mr. BREGER. We would be delighted to do so because we feel, in general terms, that the bulk of these recommendations provide significant cost savings.

Those that don't only don't because they focus on fairness.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Mr. Breger, I am going to go to a classified briefing that started about an hour ago, so I am going to ask that the balance of the questions be submitted and Senator Domenici also has some questions he would like to have answered.

Mr. BREGER. Yes, sir.

Senator DECONCINI. Thank you very much.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

1. *Other Services*

Your other services budget increased 3-fold betgween fiscal 1987 and 1988, then tapers off to $252,000 next year.

Q: Why have you had such a huge percentage growth in "other services" over the past few years?

Other Services includes research contracts; other contracts not classified as research, such as computer programming and maintenance, services, repairs, and miscellaneous items; and Interagency Agreements, for example, with General Services Administration for personnel and payroll services, and Health and Human Services for use of a health unit.

The growth in Other Services is directly attributable to the significant increase in our FY 88 appropriations for research. Historically, the agency has plowed as much as possible into research projects, after meeting the costs of salaries and expenses. In FY 1987, there was only a small amount available for research; in FY 1988, the agency has greatly increased the research budget (66%) because of the appropriations increase. We expect to continue this programmatic emphasis in FY 1989. This will allow ACUS to accomplish those priorities mandated by Congress, as well as the projects addressing other administrative procedure areas.

2. *Drop in Reimbursable Program*

Your reimbursable program has shown a tremendous drop between fiscal year 1987 and 1989 -- from $235,000 to $50,000.

Mr. Babcock testified last year on this matter and said that he did not think the reimbursable program would drop in fiscal year 1988. He even said he thought it might go up.

Q: What has happened to your reimbursable program?

The $50,000 projection was based upon projects anticipated at the time the FY 1989 budget was being prepared. However, we now expect to receive substantially more -- perhaps another $50,000 -- from agencies interested in funding studies of mutual interest.

3. *Travel*

This Committee directed that your agency make a 13% cut in your fiscal 1988 travel budget. That came to only about $9,000.

Your budget justifications seem to indicate that you did not make any cuts in travel. In fact, your travel budget increased 67% from FY 1987 to 1988 and is the sam next year.

Q: Why haven't you made any reductions in travel? If you couldn't make the cuts why didn't you write us and tell us like some other agencies have already done?

(a) In FY 1987, our staff travel was only 11% of total travel expenditure. The bulk of travel expenses was for research consultants (48%). The remainder was for plenary sessions (24%); members (12%); and council members (5%). The agency stayed 37% below its travel ceiling of $72,000. Our travel is already "bare bones" and difficult to cut further without impeding the agency mission.

(b) We thought we were complying and staying within the cut (the FY 1987 total of $43,000 is 37% below our normal ceiling of $72,000). The figure jumps significantly to $72,000 for FY 1988 and FY 1989 because of the increase in appropriations for research. The greater the number of studies being conducted, the greater the number of consultants' trips to Washington to confer with ACUS staff and the committees guiding the projects.

4. *Original OMB Request*

What was your original request to OMB; where did they cut you back and why?

(a) $2,000,000 requested

(b) OMB cut ACUS' request a total of $135,000 for a final figure of $1,865,000:

		In thousands		
		To OMB	Approved	Difference
(1)	Personnel Compensation			
	FTP	947	887	60
	Others	117	116	1
	Benefits	116	111	5
(2)	Comm., Util., Other Rent	90	85	5
(3)	Printing & Reproduction	95	76	19
(4)	Other Services	277	252	25
(5)	Supplies & Materials	45	40	5
(6)	Equipment	20	5	15
				$135

The impression gained from the OMB cut was that the agency could operate just as well with the $1,865,000 amount in FY 1989 as in FY 1988.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

1. Your budget justification for Fiscal Year 1989 reflects a fairly sharp funding increase in the classification "other services" from Fiscal Year 1987, with funding rising from a level of $90,000 in Fiscal Year 1987 to a projected level of $270,000 in Fiscal Year 1988 and falling slightly to $252,000 in Fiscal Year 1989. What funding is included in the classification "other services" and what is the reason for the funding increase in Fiscal Year 1988 over Fiscal Year 1987?

"Other services" includes research contracts; other contracts not classified as research, such as computer programming and maintenance, services, repairs and miscellaneous items; and Interagency Agreements, for example, with the General Services Administration for personnel and payroll services, and Health and Human Services for the use of a health unit.

2. The Fiscal Year 1989 budget indicates a sharp decline in your reimbursable obligations, falling from $235,000 in Fiscal Year 1987 to $50,000 in each of Fiscal Years 1988 and 1989. What is the reason for this decrease?

The $50,000 projection was based upon projects anticipated at the time the Fiscal Year 1989 budget was being prepared. However, we now expect to receive substantially more -- perhaps another $50,000 -- from agencies interested in funding studies of mutual interest.

3. Of your total $1,865,000 funding request for Fiscal Year 1989, what will be spent on each of the Conference's major activities, i.e., research, advisory and consultative, and clearinghouse activities? How do these amounts compare to what you are spending on each of these activities for Fiscal Year 1988?

In Fiscal Year 1989, the Conference plans to spend about $933,000 (50%) of its budget for Research; $317,000 (17%) for Advisory and Consultative; $187,000 (10%) for Clearinghouse activities; $280,000 (15%) for Implementation; and $148,000 (8%) for agency management.

We anticipate the spending for each of these activities in Fiscal Year 1988 and Fiscal Year 1989 will be approximately the same. Again, the appropriations increase received in Fiscal Year 1988 is earmarked for research. This is expected to continue in Fiscal Year 1989.

4. *You mention in your statement that since the Conference's mission is so encompassing and your resources limited, you channel your research and implementation efforts into selected "themes." You also note that your task in this regard has been made somewhat easier in fiscal year 1989 because the Congress has directed you to examine three*

subject areas. Would these have been areas the Conference would have examined if it had not received this congressional directive?

The Conference's statutory mandate to conduct studies and make recommendations on federal agency procedures is almost infinitely broad. Over the years the Conference has studied many programs and issued over 100 recommendations, yet there are countless important issues that need to be studied. The areas of immigration law, financial services and alternative dispute resolution have become cutting edge issues for the administrative lawyer. We have studied them from time to time in past years and undoubtedly would have undertaken some work on them in 1988 and 1989. However, the Congressional directives and additional funding have made it possible for the Conference to concentrate its attention on these topics and do in the space of a year or two, what would have otherwise taken us several years to accomplish.

5 *In terms of your process, you indicate that the Chairman initially decides to pursue a particular topic on the basis of suggestions from members of the Congress, Conference members, agency officials, academics or others. Of these various categories, who are the major requesters of your research work?*

Research topic ideas come to us from many sources, including the ones listed above. They are also self-generated by our Research Director and his staff. Moreover, to comply with Competition-in-Contracting Act strictures, we have published our project list in the Commerce Business Daily and have obtained numerous "expressions of interest" that way. Of the formal requests we receive, most have historically come from the federal agencies which are represented on the Conference; of the more informal suggestions, most come from ACUS members and academia. In Fiscal Year 1988, of course, direction to study several topics came from Congress.

6. *Of the research efforts undertaken in a given year, how many are supported by inter-agency funding agreements and how many are done by contract?*

In the last several years, the Conference has made significant use of its ability to receive transfers of funds from other agencies under the Economy Act. While only a small percentage of our research project contracts are paid for by transferred funds, several of our larger projects in the last several years were so funded. For example, our major studies of OSHA rulemaking procedures, Social Security adjudication, user fee activities and contract indemnification procedures have been done at the behest of, and with funding provided by, the sponsoring agencies.

Obviously, such arrangements necessitate closer attention to interagency relations while also preserving the independence and objectivity of the studies. We think we have carried out these studies successfully; importantly, our funding constraints would have made it impossible to undertake this work otherwise. In a real sense, the fact that the agencies asked us to conduct, and were willing to pay for, the work is the best proof that the studies needed to be done.

7. *You indicate that the Conference has adopted 100 recommendations and statements in its twenty years of existence, and that many have been fully or substantially implemented and some not acted on have become moot or have been overtaken by other recommendations. Of these 100 recommendations and statements, how many are still relevant and have not been acted on at all? What recommendations are those?*

We think our track record has been very good, at least in obtaining serious attention to our recommendations, and in most cases at least partial compliance. The Conference has adopted 129 Recommendations and 12 Statements from 1968-1987. Of these, 96 Recommendations and 8 Statements continue to be published in the Code of Federal Regulations (Parts 305 and 310 of Title 1) because they are deemed to be of continuing validity. The others are fully implemented or have been rendered moot by the passage of time.

Of course, most of the "pending" recommendations have been partially implemented by the agencies or Congress or they cover matters (like pointers on civil penalty, judicial review or rulemaking statutes) that recur every time Congress considers proposed regulatory programs. Some of our pending recommendations also urge agencies or Congress not to do something.

There are relatively few recommendations that "are still relevant and have not been acted on at all." The ones worth noting are:

A) Government Torts: (1) Recommendation 82-6 (Federal Officials' Liability for Constitutional Violations). We urged Congress to enact legislation substituting the United States as exclusive defendant in all "constitutional tort" suits filed against federal officials. This legislation has been considered, but not passed. (2) Recommendation 84-7 (Administrative Settlement of Tort and Other Monetary Claims Against the Government). We urged the Department of Justice to modify its activities in settling claims filed under the Federal Tort Claims Act and also suggested several relatively minor statutory amendments. Neither DOJ nor Congress has acted.

B) Amendments to the Administrative Procedure Act. In Recommendations 69-8, 73-5 and 74-1, we urged Congress to eliminate several exemptions to the notice-and-comment requirements for rulemaking and to establish a uniform statutory provision on subpoena power. Congress has considered but not acted on these amendments, but many agencies have voluntarily used notice-and-comment procedures for exempted rules.

C) Recommendation 75-4 (Procedures to Ensure Compliance by Federal Facilities with Environmental Quality Standards). We urged Congress to amend the environmental laws to vest compliance authority over facilities in a single agency. This dispute is still simmering.

D) Recommendation 83-1 (The Certification Requirement in the Contract Disputes Act). We urged Congress to modify the existing requirement in the Act to avoid the formalistic application occurring under current interpretations. This issue has been considered but not acted on by Congress.

E) Recommendation 84-2 (Procedures for Product Recalls). We made several recommendations to Congress and agencies to improve product recall procedures. These have not been acted upon.

Most of our 1987 recommendations are now in various stages of consideration by agencies or Congress. For example, a bill to implement our Recommendation 87-2 (Federal Protection of Private-Sector Health and Safety Whistleblowers) has been introduced.

8. *You note in your prepared testimony that the Conference has statutory responsibility to collect statistics concerning activities under the Equal Access to Justice Act and to report yearly to the Congress, but it was compelled by budget constraints to discontinue this function several years ago; this, however, is recordkeeping that you consider extremely valuable and would like to renew when resources ever permit. Who were the major consumers of this data when it was collected by the Conference? What additional resources would be needed to catch up on this data-collection responsibility?*

There is a partial misunderstanding reflected in this question. The Conference continues to collect statistics concerning agency cases filed under the Equal Access to Justice Act. We expect to continue this activity into the foreseeable future.

However, in the late 1970's, the Conference undertook a much larger venture in statistics gathering: to assemble and publish statistics on all agency administrative law judge adjudications. This effort depended on the collection of data from 30 different agencies on caseload and elapsed-time information on each case handled by each agency. Our resulting publication, "Federal Administrative Law Judge Hearings -- 1976-1978," published in 1980 (enclosed), remains the only comprehensive look at federal agency adjudication. It is still cited today, despite its being dated.

"Consumers" of this data included Congressional committees, GAO, OPM, agencies and scholars. But the task, akin to that performed by the Administrative Office of the U.S. Courts for the federal court system, had to be discontinued due to staffing and budget constraints.

To reintroduce this program would ultimately require an operational budget of several hundred thousand dollars annually. The team would require at least a

statistician, perhaps a computer expert, and some follow-up personnel (perhaps paralegals) as well as secretarial support and overhead. But there would undoubtedly be a start-up component which, if necessary, would be absorbed entirely within the FY 1989 budget.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess until Monday, March 28, at 9:30 a.m., in room SD-116, when we will receive testimony from the Office of Management and Budget and the Office of Federal Procurement Policy.

Thank you.

[Whereupon, at 10:50 a.m., Friday, March 25, the subcommittee was recessed, to reconvene at 9:30 a.m., Monday, March 28.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1989

MONDAY, MARCH 28, 1988

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:37 a.m., in room SD-116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Domenici, and Hatfield.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

STATEMENT OF JAMES C. MILLER III, DIRECTOR

ACCOMPANIED BY JOSEPH R. WRIGHT, JR., DEPUTY DIRECTOR

OPENING REMARKS

Senator DECONCINI. The subcommittee will come to order.

This morning the Subcommittee on Treasury, Postal Service, and General Government is meeting to review the fiscal year 1989 budget request of the Office of Management and Budget and the Office of Federal Procurement Policy.

We are pleased to have James C. Miller III, Director of the Office of Management and Budget; and his Deputy Director, Mr. Joseph Wright, Jr.

Mr. MILLER. He is testifying before another committee this morning. He will come over as soon as he can.

Senator DECONCINI. After Mr. Miller finishes, we will have Mr. Robert Bedell, Administrator of the Office of Federal Procurement Policy.

Mr. Miller, this morning's hearing will focus not only on the elements of your agency's fiscal year 1989 budget request, but some of the issues that involve your agency directly. There are a number of issues involving OMB that have a direct effect on this particular subcommittee and we hope to explore those with you.

86-677 O—88——30

Furthermore, the distinguished ranking member of the full Appropriations Committee, Senator Hatfield, indicated that he will come by and has some questions also that he would like to submit to you.

I would ask, Mr. Miller, if you would summarize your statement for us. Your full statement will appear in the record, and we thank you for being with us this morning.

Mr. MILLER. I will try to be very quick, Mr. Chairman.

As you indicated, I have submitted a statement for the record. Basically, what we are asking for is simply the increases required for pay, FERS, and office space. There will be no increase in staff or other accounts.

I think it is quite important that we at least remain whole. The reason being that we have had rather substantial increases in recent years in the workload requirements. We have been able to offset the resource needs, somewhat, that would go along with increased requirements by productivity increases. Further productivity increases are a major reason why we have asked for a separate package for some upgrading of the budget software that we use when interfacing with agencies and Congress. In addition, we are also asking for help in improving the word processing capabilities that we have at OMB.

Again, the budget increase is very small. In real terms the OMB is down in size from what it was in 1981 as opposed to a substantial increase for a couple of sister agencies, the General Accounting Office in particular and also CBO.

We are able to do the work, I think, because we have, as you know, a splendid group of people at the Office of Management and Budget and because we have given a lot of attention to our productivity increases.

PREPARED STATEMENT

We feel, however, at this juncture, that the budget request the President has submitted to Congress is quite important. At this point let me stop and respond to any questions you might have.

[The statement follows:]

STATEMENT OF JAMES C. MILLER III

Mr. Chairman and Members of the Subcommittee: I am pleased to be here to discuss the FY 1989 budget request of the Office of Management and Budget.

OMB's FY 1989 budget request is for $39,780,000 -- in nominal terms 2 percent above our resources for FY 1988; in real terms, 1.7 percent below last year's appropriation. All increases are non-discretionary: they reflect costs associated with the FY 1988 pay raise, promotions and within-grade increases, the Federal Employees Retirement System (FERS), and higher rates for GSA - controlled office space. In other words exclusive of mandatory increases associated with personnel compensation and benefits, as well as office rents, OMB's request reflects no nominal increase in funding. Nor do we request any increase in staff.

Mr. Chairman and Members of the Subcommittee, I want to emphasize that in real terms this FY 1989 budget request is well below levels OMB enjoyed as late as 1981. This, despite substantial increases in -- workload, especially the requirements imposed on the agency by the Gramm-Rudman-Hollings (G-R-H) deficit reduction law.

Some 92.5 percent of OMB's budget is for personnel compensation and benefits (70.4 percent), rental payments to GSA (13 percent), printing of the President's Budget and Management Report (2.9 percent), and text and data processing support (6.2 percent). An additional 2.3 percent is for telephone service, postage, utilities, and rental of equipment. The remainder covers staff training and travel, background investigations, ADP and other equipment purchases, and office supplies.

Over the last eight years, OMB has taken the lead in efforts to make the Government more efficient and productive. OMB has set an example that other agencies should follow. Since 1981, OMB has reduced spending for such items as travel, rental of office machines, communications, utilities, printing, ADP support, and equipment. In addition, OMB has reduced office space occupied by 22 percent. Unfortunately, due to rate increases, the cost to OMB for the remaining space has increased by $2,611,000 -- or 102 percent -- over the eight - year period.

The only areas in which OMB's budget has increased since FY 1981 are compensation/benefits and office supplies. The increase in annual compensation/benefits is $5,532,000 -- attributable to cost-of-living pay increases and higher retirement costs associated with the FERS system. This has happened despite a 7.5 percent reduction in the number of authorized personnel over the same period.

As I indicated earlier, the funding increases requested for FY 1989 are non-discretionary and will not provide for any additional staff. The largest increase for FY 1989 is for personnel compensation and benefit costs. This increase of $715,000 -- or 91.7 percent of the total requested increase -- represents costs attributable to the January 1988 pay raise, promotions and within-grade increases, and costs associated with FERS.

The remaining increase $65,000, or 8.3 percent, is for the costs of currently occupied office space in the Executive Office Complex. The rate per square foot for office space will increase from $28.00 to $28.35.

Mr. Chairman, OMB's workload has increased steadily since FY 1981. Gramm-Rudman-Hollings, Reform 88, preparation and printing of the Management Report, and Congressional mandates such as the Infrastructure Report, have all added to our duties. In addition, in FY 1989, OMB will be assisting in an orderly transition to a new Administration. In fact, Joe Wright and I have already testified before Congress on various pieces of transition-related legislation. In spite of these demands, our authorized full-time staff, as I have noted, is 7.5 percent smaller than it was in FY 1981, and our FY 1989 budget, in real terms, is 12.8 percent lower.

To sum up: this budget reflects OMB's continued efforts to control costs without compromising quality of service. For eight years, OMB has been a model for other Government agencies, demonstrating how to be more productive with fewer employees and less money. We are now doing all we possibly can with what Congress has given us. If OMB is to discharge successfully the growing number of duties we have been assigned, our resources must be commensurate with our responsibilities.

In addition, Mr. Chairman and Members of the Subcommittee, I'm here today to testify on the Expenses of Management Improvement. This account was created during the Eisenhower Administration to provide for the examination of organization and management problems in the Executive Branch, and for actions to improve the management of Executive agencies.

As you know, the President, in his State of the Union Address in January, made improvement of the budget process a top priority. His call received bipartisan support not only to streamline the budget process, but to simplify it drastically. This requested appropriation will be the first step toward achieving this end.

As proposed, this appropriation would be used to provide both a comprehensive Federal budget and financial information system, and a comprehensive OMB office automation system. OMB would supervise the development of these systems and manage the expenditure of funds appropriated for this purpose.

Mr. Chairman, a uniform Federal budget and financial information system has been needed for a long time. The current multiple system, which "just grew" over the last 20 years, is both cumbersome and out of date. The budget process is constantly changing. The ability to adapt to change is essential, and the new single system will provide the Executive Branch with that essential adaptability. The plan is to work with the Congressional Budget Office, the Department of the Treasury, and other organizations to merge data from them into a form that will give policy officials information that is useful and understandable.

OMB will work with these entities to develop a higher level of integration with their respective systems. In this way, OMB will provide a benefit to both Congress and the Executive Branch in the form of improved information access.

The office automation system is OMB's continuing effort to obtain a high quality word processing system to meet the dynamic and growing needs of this agency. Historically, word processing at OMB progressed in leaps and bounds. As early as the mid-1970's, OMB used word processing to produce bulletins, circulars, and memos. The current system is at maximum capacity and cannot be expanded any further. The system is based on obsolete equipment, which has limited capability to exchange information. In addition, the system has restricted ability to communicate, and can "talk" with only a handful of OMB's 350 or so personal computers. The solution is to build a local area network incorporating OMB's personal computers, which would allow for electronic transfer of documents to all levels of OMB staff. This integrated automation system will help standardize training procedures and enhance the use of computer support already in existence. This system can be installed in about one year's time and will be of genuine benefit to the new Administration in 1989.

Mr. Chairman and Members of the Subcommittee, that completes my prepared statement. I shall be happy to address any questions you may have.

JUSTIFICATION ON FISCAL YEAR 1989 APPROPRIATIONS REQUEST FOR OFFICE OF MANAGEMENT AND BUDGET

I. Appropriations Language

1989 Regular Appropriations

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses for the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; [$39,000,000] $39,780,000, of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C., chapter 35.

II. General Statement

SUMMARY

The Office of Management and Budget requests a fiscal year 1989 appropriation of $39,780,000. This request compares with the Office's 1988 operating level of $39,000,000. It represents the essential resources needed for OMB to assist the President in his budgetary, management, and other executive responsibilities.

OMB RESPONSIBILITIES

The Office of Management and Budget (OMB) derives its basic authority from the Budget and Accounting Act of 1921, as amended. This Act, in providing the first comprehensive national budget system, gave the Bureau of the Budget the authority to assemble, correlate, and recommend changes to the requests for appropriations of the several departments or establishments. The Bureau was further authorized to make those detailed administrative studies which would help in securing greater economy and efficiency in the conduct of the public service.

In response to a request by the Chairman of the Appropriations Committee, President Harding in 1921 instructed the Federal agencies to submit to him, through the Director of the Bureau, all requests or recommendations for legislation which would require appropriations presently or in the future. This clearance procedure was later extended to all legislation. The above and other statutory requirements (listed in Chapter VII) require a set of functions to be performed by OMB.

OMB, which was created from the Bureau by Reorganization Plan No. 2 of 1970, also now provides the President with an institutional staff capability in executive management, particularly in program evaluation and coordination, management reform, regulatory analysis, and information and management systems.

FUNCTIONS AND ORGANIZATION

The functions of the Office of Management and Budget include the following:

- To advise the President on fiscal and economic policies for the nation.
- To prepare the budget and formulate the Government's fiscal program.
- To supervise and control the administration of the Executive Branch budget.
- To examine the management and administrative systems of the Executive Branch, to establish policies that will assure the efficient operation of the Federal Government.
- To evaluate the performance of Federal programs.
- To encourage interagency and intergovernmental cooperation and coordination.
- To clear and coordinate departmental recommendations for proposed legislation and for Presidential action on bills passed by Congress.
- To assist in the consideration, clearance, and preparation of Executive Orders and proclamations.
- To keep the President advised of agencies' activities – proposed, initiated, and completed; and to coordinate interagency activities to assure that funds appropriated by the Congress are spent with minimum duplication.
- To provide overall direction of procurement policies, regulations, and procedures for executive agencies.
- To develop and manage programs to improve the quality, efficiency, and performance of acquisition and procurement personnel.
- To implement and monitor new initiatives on information policy, paperwork reduction and regulatory reform.
- To establish policies and methods that reduce fraud, waste, and abuse in Federal programs, including provision of staff support to the President's Council on Integrity and Efficiency and the President's Council on Management Improvement.
- Continued development and implemention of the President's Productivity Improvement Program, as well as the credit and cash management programs.

More detailed organizational information is provided in Chapter V.

1989 BUDGET REQUEST

The President has requested $39,780,000 for OMB in fiscal year 1989. Approximately 92.5% of this request is for personnel compensation, standard level user charges (SLUC), printing for the President's budget, and text and data processing support. An additional 2.3% of the request is for telephone service, postage, utilities, and equipment rentals. The remaining 5.2% of the request is for staff travel and training, background investigations, ADP and other equipment purchases, and office supplies.

The President's request for 1989 is $780,000 (or 2.0%) above OMB's 1988 operating level. Exclusive of uncontrollable increases for compensation/benefits and office space, this request represents no increase over OMB's 1988 operating level. The 1989 request reflects the necessary amount needed for OMB to continue to provide the President with support in the area of budget, regulatory, and other executive responsibilities. Funding OMB below the request level would have a dramatic impact on the agency's ability to provide the President with the necessary support. This request will not provide for an increase in staff. The majority of the increase is non-discretionary and is attributable to costs associated with the Federal Employee Retirement System, the 1988 pay raise, and increased rates for currently occupied office space.

- ***Personnel Compensation and Benefits.*** The increase of $715,000 from OMB's 1988 estimated resources will be used primarily to provide funding of the costs associated with the Federal Employee Retirement System (FERS) ($165,000). The remaining $550,000 will fund the January 1988 pay raise, within grade increases and promotions. This request level will not provide funding for any of OMB's vacant positions. Since 1977, the number of authorized positions in OMB has decreased by 112 (or 16%).

- *Travel.* This request is the same as OMB's 1988 level and $110,000 (26%) less than what was spent in 1981. Over the past five years, we have tried to make the most of our travel funds by providing funding primarily to new examiners to travel and get first–hand knowledge of their programs. Travel for conference and other administrative purposes has been kept to a minimum.

- *Rental Payments to GSA.* The increase of $65,000 from OMB's 1988 operating level is due to increased rates for office space in the Old and New Executive Office buildings. Cost for office space in the EOP complex will increase from $28.00/sq. ft. to $28.35/sq. ft.. OMB has reduced office space by 22% since 1981.

- *Communications/Utilities/and Miscellaneous Charges.* This request is the same as OMB's 1988 estimated expenditures. This request level is still $1,081,000 (or 54%) less than what was spent in 1981.

- *Printing.* The 1989 request is the same as the 1988 estimate, and is still $537,000 (32%) below the 1981 operating level. Costs in this area have been cut about as much as possible. Our request will fund such items as the printing of the President's Budget, publishing in the Federal Register and printing OMB circulars and bulletins. These items are basic to our mission and do not provide further cost savings.

- *Supplies and Equipment.* The request is the same as the 1988 estimated level.

- *Other Services.* This request is the same as OMB's 1988 level. This request level is still $81,000 (2.5%) below the 1981 operating level.

III. Summary Tables

BUDGET OVERVIEW
(in thousands of dollars)

	1987	1988	1989
Budget Authority	37,413	39,000	39,780
Obligations	37,229	39,000	39,780
Outlays	35,680	38,782	40,099

	Fiscal Year	Authorized Positions
Full-Time Permanent Employment	1977	682
	1982	604
	1983	604
	1984	604
	1985	594
	1986	594
	1987	580
	1988	570
	1989	570

OFFICE OF MANAGEMENT AND BUDGET SALARIES AND EXPENSES

Program and Financing (in thousands of dollars)

	1987 Actual	1988 Est.	1989 Est.
Program by activities:			
1. Budget review	5,381	5,590	5,698
2. National security and international affairs	5,544	5,731	5,871
3. Economics and government	4,039	4,175	4,278
4. Natural resources, energy and science	4,911	5,076	5,201
5. Human resources, veterans and labor	4,241	4,383	4,491
6. Director's Office	4,284	4,445	4,538
7. Management	3,745	3,871	3,967
8. Information and regulatory affairs	5,009	5,176	5,303
9. Privatization Office	0	353	433
10. Commission on Privatization	75	200	0
Total program costs, funded-obligations	37,229	39,000	39,780
Reimbursable Program	57	—	—
Total Obligations	37,286	39,000	39,780
Financing:			
Offsetting Collections from Federal Funds	-57	—	—
Unobligated balance lapsing	184	—	—
Budget authority:	37,413	39,000	39,780

	1987 Actual	1988 Est.	1989 Est.
Relation of obligations to outlays:			
Obligations incurred, net	37,229	39,000	39,780
Obligated balance, start of year	3,823	4,383	4,601
Obligated balance, end of year	-4,383	-4,601	-4,282
Adjustments in expired accounts	-989	—	—
Outlays	35,680	38,782	40,099

Object Classification (in thousands of dollars)

	1987 Actual	1988 Est.	1989 Est.
Personnel Compensation:			
Full-time permanent	20,634	22,180	22,730
Other than full-time permanent	1,276	955	955
Other personnel compensation	535	535	535
Special personnel services payments	48	50	50
Total Personnel Compensation	22,493	23,720	24,270
Personnel benefits: civilian	2,723	3,573	3,738
Travel and transportation of persons	246	320	320
Rental Payments to GSA	5,079	5,097	5,162
Communications, utilities and miscellaneous charges	889	910	910
Printing and reproduction	1,138	1,150	1,150
Other services	3,113	3,100	3,100
Supplies and materials	508	530	530
Equipment	1,040	600	600
Total Obligations	37,229	39,000	39,780

PERSONNEL SUMMARY

	1987 Actual	1988 Est.	1989 Est.
Total number of Full-time permanent positions	478	570	570
Total compensable workyears: Full-time equivalent employment	507	580	580
Full-time equivalent of overtime and holiday hours	6	6	6
Average ES salary ($)	71,930	72,393	72,393
Average GS grade	11.4	11.4	11.4
Average GS salary ($)	38,132	38,704	38,704

SUMMARY OF INCREASES FROM 1988 TO 1989

(In thousands of dollars by object classification).

Fiscal Year 1988:		
1988 Appropriation		$39,000
Increases/Decreases:		
• Personnel and benefits	715	
• Travel	0	
• Rental payments to GSA	65	
• Communications, utilities, and miscellaneous charges	0	
• Printing	0	
• Other services	0	
• Supplies	0	
• Equipment	0	
• Net increase 1988–1989		780
1989 Budget Request		$39,780

DISTRIBUTION OF PERMANENT POSITIONS

The distribution of permanent positions assigned to each OMB unit is as follows:

	1987 Allocation	1988 Allocation	1989 Allocation
1. Office of the Director	75	70	70
2. Budget Review	80	78	78
3. National Security and International Affairs	82	80	80
4. Human Resources, Veterans and Labor	68	66	66
5. Economics and Government	67	65	65
6. Natural Resources, Energy and Science	79	77	77
7. Information and Regulatory Affairs	78	76	76
8. Management Activities	51	52	52
9. Privatization Office	0	6	6
10. Commission on Privatization	0	0	0
TOTAL OMB	580	570	570

IV. Detailed Cost Justification by Object Classification

PERSONNEL COMPENSATION (OBJECT CLASSIFICATION 11), $24,270,000

Summary of Personnel Costs
(In thousands of dollars)

	1987	1988	1989
Permanent personnel costs	$20,634	22,180	22,730
Nonpermanent personnel costs	1,276	955	955
Overtime & other personnel costs	583	585	585
Total personnel costs	$22,493	$23,720	$24,270

PERSONNEL BENEFITS (OBJECT CLASSIFICATION 12), $3,738,000

This request is for OMB's mandatory contributions to the Civil Service Retirement System, the Federal Employees Retirement System, the Social Security Retirement and Medicare programs, the Federal Group Life Insurance program, and the Federal Employees Health Benefits program.

TRAVEL AND TRANSPORTATION OF PERSONS (OBJECT CLASSIFICATION 21), $320,000

This request provides travel funds for the examination of executive branch activities outside Washington, D.C., and for other official business by OMB staff. This level of funding is $58,000 less than that expended in 1976. Since that time, reimbursements for per diem and high cost areas have increased significantly. Consequently, the current request is, in real terms, well below the 1976 levels.

RENTAL PAYMENTS TO GSA (OBJECT CLASSIFICATION 23.1), $5,162,000

This estimate represents payments made to the General Services Administration (GSA) for rental of office space in the Old and New Executive Office Buildings. The rates used are those mandated by GSA for space currently occupied. Standard level user charges (SLUC) will increase for office space from $28.00 a sq. ft. to $28.35 a sq. ft. During the past seven years, OMB has reduced the square footage occupied by approximately 44,000 sq. ft. or 22%.

COMMUNICATION, UTILITIES AND MISCELLANEOUS CHARGES (OBJECT CLASSIFICATION 23.3), $910,000

This estimate includes the cost of operating the Executive Office joint telephone switchboard, including salaries of telephone operators, local telephone service costs as well as costs of the Federal Telecommunication Service (FTS) and postage. Also included in this estimate are costs associated with (1) rental of duplicating equipment; and (2) reimbursement to GSA for furnishing after-hour utilities. This request level is $1,081,000 (54%) below the FY 1981 operating level.

PRINTING AND REPRODUCTION (OBJECT CLASSIFICATION 24), $1,150,000

This request covers the cost of publishing in the Federal Register; work done by the Government Printing Office (GPO), principally the printing of the President's budget documents and related materials, forms and binding, as well as work handled by the Office of Administration's duplicating facilities. This request level is still approximately $537,000 (32%) below the FY 1981 operating level.

OTHER SERVICES (OBJECT CLASSIFICATION 25), $3,100,000

This request includes charges for: (1) the development of various computer information systems, (2) computer time-sharing, (3) personnel security investigations conducted by the Office of Personnel Management, (4) OMB's share of maintaining an employee health program, (5) maintenance agreements and repairs to equipment, (6) training, and (7) other miscellaneous services. This request level is still $81,000 (2.5%) below the 1981 operating level.

SUPPLIES AND MATERIALS (OBJECT CLASSIFICATION 26), $530,000

This estimate is for the purchase of normal office and ADP supplies and additional work materials, such as legislative bills, reports, enacted legislation, and periodicals. This request level will provide for normal costs associated with ADP and office supplies.

EQUIPMENT (OBJECT CLASSIFICATION 31), $600,000

This request covers the purchase of office equipment, communications hardware and software, and related peripheral equipment. These funds will be used to begin replacing older machines, where maintenance is no longer cost effective. They will also be used to purchase leased equipment when it becomes more cost effective to buy rather than continue to lease.

V. Statement of Functions and Workload

The variety and complexity of the work of the Office of Management and Budget in functioning as staff to the President is enormous and cannot easily be summarized in a brief statement. A brief description of workload responsibilities in the Office of the Director is set forth below.

OFFICE OF THE DIRECTOR

The Office of the Director consists of the Director, Deputy Director, Executive Associate Director, Executive Assistant to the Director, and their assistants and support personnel. The Office also includes the Economic Policy, Legislative Affairs, General Counsel, Public Affairs, Administrative and Legislative Reference units. A brief description of each staff office follows:

ECONOMIC POLICY

The Office of Economic Policy assists the Director in developing overall fiscal and monetary policies and represents OMB in the development of Administration economic policies. The office makes economic forecasts, analyzes the economic impact of Federal policies and programs, reviews tax proposals for fiscal and specific effects, and reviews tax expenditures. The office also assists in the development of OMB's contributions to Cabinet Council activities, analyzes long-term government-wide policies, and prepares fact sheets and other explanatory documents.

LEGISLATIVE AFFAIRS

The Office of Legislative Affairs coordinates all OMB activities that relate to the Senate or House of Representatives. The office works with Congress to enact portions of the Federal budget and other key Presidential legislative and management initiatives; maintains working relationships with members, committees, and staff of Congress; provides policy advice to the Director and his key policy associates; maintains liaison with the White House Legislative Affairs Office; alerts agency congressional liaison officers to legislative problem areas and works with them to resolve the difficulties; and coordinates responses to congressional requests for information.

LEGISLATIVE REFERENCE DIVISION

The Legislative Reference Division coordinates the review and analysis of Executive agency legislative proposals and agency reports including testimony on pending legislation; advises the agencies as to the relationship of their proposals and reports to the President's program; and clears such proposals and reports for transmittal to Congress. The Division informs congressional committees of the relationship of pending legislation to the President's program, participates in the development of the President's legislative program, and prepares memoranda to the President on enrolled bills. The division also prepares and processes Presidential proclamations that are required by Congressional joint resolution or that are issued as a matter of traditional practice. These activities affect all organizational units of OMB, since the specialist in each program or functional area are called upon to assist in the review, analysis, and clearance of agency legislative proposals, reports, and testimony; in the preparation of replies to congressional committee requests for OMB's views on pending legislation, and in the handling of enrolled bills.

GENERAL COUNSEL

The Counsel's Office provides legal advice to the Director and OMB staff, clears proposed Executive Orders and proclamations, participates in the development of policy and legislative proposals to be sponsored by OMB or which affect the performance of OMB's own functions, and performs any additional legal functions assigned by the Director.

PUBLIC AFFAIRS

This office deals with the information media and key public/private sector groups, and coordinates information efforts with other government agencies. In addition, the office serves as a liaison between OMB and The White House Press Office.

ADMINISTRATION OFFICE

As the principal assistant for office management, the Assistant Director for Administration oversees OMB's internal management activities and serves as liaison between OMB and the Office of Administration regarding personnel, financial, computer, administrative support, and other central staff services.

This office prepares and executes OMB's budget, prepares internal accounting reports, and provides financial guidance and assistance to the divisions. The office also reviews and clears OMB issuances; coordinates OMB action on GAO reports; oversees organization, staffing, and security; ensures compliance with the Ethics in Government, Freedom of Information, and Privacy Acts; and serves as Executive Secretary to the Senior Executive Service Executive Resources and Performance Review Boards.

MAJOR WORKLOAD IN 1988 and 1989

The major tasks of these offices include:

- The overall management of the Office of Management and Budget.
- Short and long-range economic forecasting, economic analyses, fiscal analyses, and special economic studies; representing the OMB in the Administration's economic planning councils.
- Providing a central inquiry and referral point for thousands of Congressional inquiries, both written and oral.
- Representing OMB on Capitol Hill in support of the Administration's economic and budgetary recommendations, with a particular focus on the Congressional budget process.
- Providing legal advice to OMB officials and staff; coordinating and clearing proposed Executive Orders and proclamations.
- Handling thousands of inquiries from the press and general public regarding OMB activities and publications; preparing speeches; organizing briefings for visitors and press officials; preparing general descriptive materials about the agency's operations.
- Administering systems for the effective operation of personnel, budget, accounting, procurement, automated systems, publishing, office space and other administrative support systems necessary to the daily OMB operations.

BUDGET REVIEW DIVISION

The Budget Review Division has the lead staff role in the exercise of the Office's responsibilities for the preparation of the Federal budget. The Division's responsibilities include coordination of the executive branch budget process; development and improvement of the Federal budget formulation and execution systems; provision of up-to-date information on the legislative status of the Administration's budget proposals; preparation of the sequestration report required by the Balanced Budget and Emergency Deficit Control Act; coordination of the preparation of the President's budget and the rescission and deferral messages required by Title X of the Congressional Budget and Impoundment Control Act; development and operation of the system for controlling Federal civilian employment in the executive branch; analysis of economic and budgetary projections; development of economic assumptions for budget estimates; liaison with the legislative and judicial branches on matters related to the budget process; and maintenance of an up-to-date data base on executive and legislative budget actions.

MAJOR WORKLOAD IN 1988

The Division's major workload activities in 1988 are:

- Maintenance of an orderly budget process despite constantly changing data requirements and heavy year around demands, with special attention to efforts to simplify and improve the process.
- Preparation of the annual budget documents, revised budget documents, summary tables, scorekeeping reports, and other supporting materials consistent with the budget summit agreement between the Congress and the Reagan Administration and the requirements of the Balanced Budget and Emergency Deficit Control Act.
- Preparation, after consultation with the Congressional Budget Office, of the sequestration reports required by the Balanced Budget and Emergency Deficit Control Act to be submitted on August 25.
- Analysis of various baselines, including prior year, current services, and the baseline used in the sequestration report, that may be used to measure the impact of policy decisions.
- Extensive tracking and analysis of the Congressional Budget Resolution, appropriations (including continuing resolutions) and reconciliation bills.
- Analysis of proposed legislation with major implications for the budget and the budget process.
- Analysis of proposals to change the terms, concepts, and manner in which the budget presents information.
- Continuing the development of a successor system to the current automated support systems used for budget preparation, printing, and analysis, with emphasis on improving flexibility, access, and ease of use.
- Development of the Administration's credit reform proposals, including drafting legislation, preparing budget account details, responding to congressional actions and inquiries,and analyzing the impact of the proposal on the budget.
- Evaluation, coordination and preparation of testimony that describes the Administration's pilot loan asset sale program.
- Coordination of PPSSCC recommendations and other management initiatives.

- **Oversight of the catalog that provides information on domestic Federal assistance programs.**
- **Close attention to controlling Federal employment.**
- **Preparation of the annual report on Federal capital infrastructure spending mandated by the Federal Capital Investment Program Information Act.**
- **Preparation of budget briefings for the President and the cabinet.**

EXPECTED EMPHASIS FOR 1989

The major emphases for 1989 include:

- Assisting in an orderly transition to a new administration.
- Coordination and completion of the budget process for the 1990 budget and preparatory work on the 1991 budget.
- Continued frequent analysis of legislative action affecting the budget, including budget resolutions, continuing resolutions, and reconciliation and appropriations bills.
- Continued review and evaluation of Federal credit policy, efforts to improve Federal credit program management, and the economic impact of Federal credit.
- Continuation of the process of controlling employment in the Federal Government using controls based on full-time equivalent employment.
- Continuing efforts to simplify the budget process to assist in the management of steadily increasing workload.
- Substantial completion of the successor system to current automated support systems used for budget preparation, printing, and analysis.

NATIONAL SECURITY AND INTERNATIONAL AFFAIRS PROGRAM DIVISIONS

ASSOCIATE DIRECTOR

The Associate Director for National Security and International Affairs provides executive direction and coordination for the following three program divisions: International Affairs Division; National Security Division; and the National Security and International Affairs Special Studies Divisions.

NATIONAL SECURITY DIVISION

The division reviews and examines budget requests, policies, programs, operating methods, and legislative proposals for the Department of Defense, the intelligence agencies and five related agencies. The estimated 1989 expenditures for these agencies total about $294 billion. These agencies employ over 2,000,000 military personnel and about one million civilian personnel. The Division conducts in-depth studies in broad mission areas, reviews long-range programs, and conducts special analyses of problem areas, emphasizing program effectiveness and economy of operation.

MAJOR WORKLOAD IN 1988

Department of Defense. The Division worked with the Department of Defense to revise extensively the 1989 portion of the two-year (1988 and 1989) budget submitted to Congress in January 1987. In addition, the staff has:

- Raised issues covering a wide range of Defense program and budgetary matters, including an assessment of varying budget levels;
- Reviewed managerial improvements within Defense, including weapons acquisition and national defense stockpile management;
- Identified issues affecting military pay and benefits, medical care for dependents, and civilian employment levels;
- Reviewed a large number of legislative proposals affecting the Defense Department, including several pay and benefits proposals, particularly the recommendations of the Sixth Quadrennial Review of Military Compensation; and
- Provided analyses and rapid responses to numerous Congressional proposals to revise the Administration's Defense program.

Intelligence Agencies. The Division also reviewed the national foreign intelligence program in preparation for the 1989 budget presented to Congress in February. Division staff work with the staffs of the intelligence agencies, the Department of Defense, and the NSC in the identification, presentation and resolution of issues. As with the Defense Department, the staff reviewed numerous management, personnel, and legislative proposals affecting U.S. intelligence activities.

EXPECTED EMPHASIS FOR 1989

Major workload items are expected to include:

- Review of the size and content of the Defense and Intelligence programs for the President's 1990 budget.
- Review of major program initiatives including the strategic defense initiative, naval force requirements, near term improvements to the readiness of combat forces and the mix of modernization programs in support of overall Administration policies;
- Identification of opportunities for improved management of the Defense program including acquisition, and contracting out of commercial type activities; and
- Continued focus on projecting and tracking Defense outlays and the impact of Defense programs on the economy.

INTERNATIONAL AFFAIRS DIVISION

This Division reviews and examines policies, programs, operations, and budgetary issues associated with U.S. diplomatic and consular activities, foreign military and economic assistance, U.S. participation in international multilateral organizations, international trade and finance, and information and cultural exchange programs. The Division also provides staff assistance and advice to the Director, Deputy Director and Associate Director (National Security and International Affairs) and participates in interagency bodies dealing with international affairs. The Division covers 25 agencies and programs which are estimated to spend $14 billion in 1989 net of receipts. The total Federal employment reviewed by this Division is over 41,000 work years.

MAJOR WORKLOAD ACTIVITIES IN 1988

- The Division is conducting program, legislative and budget reviews and is supporting the central OMB process for tracking budget requests and legislative proposals as they are acted on by the Congress, their committees, and subcommittees.
- Budget execution duties involve apportioning and reapportioning accounts, preparation of deferral and rescission reports, review of agencies' testimony reports and reprogramming notifications to the Congress, review of Presidential Determinations under the various foreign aid and refugee laws, release of funds from the President's Emergency Refugee Fund, and reporting to Congress on use of funds.
- Substantial effort is being devoted to preparing materials in a variety of formats explaining to Congressional and public audiences the effects of international affairs budgetary levels on foreign policy and security goals.
- Division personnel are participating actively in interagency committees and supporting OMB policy officers in the National Security Council and its subordinate committees, the Economic Policy Council, the National Advisory Council on International Monetary Policies, the Trade Policy Committee, the Food Aid Subcommittee of the Development Coordinating Committee, the Board of the Foreign Service, the Interagency Working Group on Refugees and the International Broadcasting Committee.
- Chairing the interagency effort to collect data and prepare the fourth annual report on military trade offsets required by the Defense Production Act.
- Working with the Treasury and other agencies to establish regulations for the foreign military sales debt reform programs established by the 1988 continuing resolution.
- The Division is working with other agencies and OMB divisions to coordinate preparation of the Administration's positions on proposed trade legislation and to provide budget and policy analysis of related congressional bills.

EXPECTED EMPHASIS FOR 1989

- Continued careful review of international affairs spending initiatives to assure, within the overall fiscal policy applicable to fiscal year 1989 and beyond, that resources will be adequate for our most pressing foreign policy needs.
- Close collaboration with the Department of State and the National Security Council to assure a comprehensive review of foreign aid budget requests consistent with foreign policy objectives.
- Strengthen efforts to make U.S. bilateral and multilateral foreign aid conditional upon the adoption of sound economic policies in recipient countries and conducive to greater participation by the private sector.

— Assure coherent U.S. international trade policy decisions through an efficient interagency process with major focus on well managed support for the Uruguay Round of GATT trade negotiations.

— Close collaboration with the U.S. Trade Representative to ensure that Administration positions on proposed trade legislation such as the Canada Free Trade Agreement and Uruguay Round negotiating authority are reviewed by all concerned agencies.

— Close review of progress in the modernization programs of the Voice of America and Radio Free Europe/Radio Liberty.

— Monitoring the efforts of the State Department to improve security of embassies and consulates abroad.

— Special efforts to work with OMB management divisions to improve the automated financial, personnel, and information systems of the Department of State, U.S. Information Agency, and the Agency for International Development.

— Preparation of the fifth annual report on military trade offsets.

— Continued work on modernizing Division operations by achieving more extensive computer applications.

NATIONAL SECURITY AND INTERNATIONAL AFFAIRS SPECIAL STUDIES DIVISION

This Division analyzes selected policy issues concerning national defense and international affairs to provide a better analytical basis for decisions on the budget. The Division also coordinates the analysis, policy development, and implementation of certain crosscutting issues within OMB, the Executive Office of the President, and interagency review groups.

MAJOR WORKLOAD IN 1988

— Participated in the revision of the national space policy.

— Reviewed space launch management and funding issues.

— Assisted in the interagency review of the U.S. semiconductor industry.

— Participated in the interagency review of "unfair trade" (Section 301) cases.

— Assisted in the implementation of nuclear nonproliferation policy.

— Participated in the review of international science and technology cooperation agreements.

— Coordinated the preparation of the interagency report required by the Defense Production Act on offset arrangements in defense-related exports.

— Participated in review of ways to improve the effectiveness of the Overseas Private Investment Corporation.

— Assisted in the review of proposed legislative reforms of the Davis-Bacon Act and Service Contract Act.

— Directed the management review of the U.S. Soldiers' and Airmen's Home.

— Analyzed military compensation, family housing, and retirement issues.

— Coordinated interagency review of issues concerning increased convergence of Defense and Commerce meteorological satellite programs.

EXPECTED EMPHASIS FOR 1989

— Major workload will include the review of issues concerning:

- International Trade and Competitiveness
- International Research and Development Cooperation
- International Food Aid
- International Energy
- Nuclear Nonproliferation
- Offsets in Defense – Related Exports
- Military Family Housing
- Military and Civilian Compensation
- Davis-Bacon and Service Contract Acts.
- Space Policy

HUMAN RESOURCES, VETERANS, AND LABOR PROGRAM DIVISION

ASSOCIATE DIRECTOR

The Associate Director for Human Resources, Veterans, and Labor provides executive direction and coordination for the following three program divisions: Health and Income Maintenance Division; Labor, Veterans, and Education Division, and the Human Resources, Veterans, and Labor Special Studies Division.

HEALTH AND INCOME MAINTENANCE DIVISION

The Health and Income Maintenance Division examines budget requests, operating methods, programs, regulations and statistical policies and legislative proposals for the Department of Health and Human Services, the Department of Agriculture's food and nutrition programs, and several smaller agencies having health and income maintenance functions. These programs include the largest Federal trust funds such as the Old-Age and Survivors Insurance Trust Fund, the Disability Insurance Trust Fund, the Supplemental Medical Insurance Trust Fund, and the financially ailing Hospital Trust Fund. These programs involve over 100 separate budget accounts, 150,000 federal employees, and over $375 billion in outlays—more than 35% of the entire 1988 federal budget.

MAJOR WORKLOAD IN 1988

Development of 1989 budget and legislative proposals, including reforms of Medicare and Welfare, including:

Farm Bill Amendments

Child Support Enforcement Amendments

Aid to Families with Dependent Children Amendments

Health Services and Research Amendments

Health Block Grants Reauthorization

Vaccine Compensation Amendments

Child Abuse Prevention and Treatment Act Amendments

Indian Health Amendments

Railroad Unemployment Insurance Reforms

Railroad Retirement Reforms

Foster Care, Adoption Assistance and Child Welfare Act Amendments

Native Americans Amendments

Older Americans Act Amendments

Developmental Disabilities Bill of Rights Act Amendments

Activities associated with the above proposals include monitoring, analysis, and clearance of reports and testimony as the bills move through the Congress.

— Preparation and presentation of 1988 and 1989 Spring Planning and Director's Review issue papers.

— Health Entitlements:

Analysis of proposals, including:

- Review of Medicare/Medicaid legislation (over 28 discrete legislative proposals with total projected savings of $23 billion, 1987–1992).
- Initial review of testimony related to proposals.
- Tracking of Congressional action (budget resolutions, possible Reconciliation) on Administration proposals and related legislation.
- Development of alternative proposals in response to Congressional action as needed.
- Review of regulations implementing enacted legislation.

Various program functions:

- Development and review of over 100 legislative proposals, testimony, bill reports, and enrolled bill memos for areas listed above.
- Review about 20 personnel, supplemental, and budget amendment requests.
- Technical assistance to agencies.
- Monitoring of appropriation actions and development of recommendations for Administration positions on appropriation bills.
- Response to numerous congressional and public inquiries.
- Apportionments and reapportionments.
- Regulation and paperwork reviews.

EXPECTED EMPHASIS FOR 1989

- Development of budget, legislative, and regulatory alternatives for 1989 and beyond.
- Ongoing review, evaluation, and monitoring of agency program policies.
- Updates of the 1989 Budget and development of the 1990 Budget.
- Development of Medicare/Medicaid alternatives for the 1990 Budget.
- Development of independent Medicare/Medicaid estimating capacity to check actuarial estimates/produce quick turnaround on alternative proposals.
- Review of major research, demonstration, OBRA, and TEFRA waivers with potentially large program impact, e.g., alternative state rate-setting systems for Medicare.
- Monitor performance of Peer Review Organizations (PROs) in assuring quality of medical care.
- Monitor research and education activities for AIDS.
- Monitor development of Medicare physician reform initiatives.
- Monitor welfare reform proposals.
- Develop and analyze options to ensure solvency of rail pension fund.
- Analyze options to prevent insolvency of the Medicare trust funds.
- Continue user fees analyses in PHS and HCFA.
- Management improvements and long-term self-determination goals for Indian Health Service.
- Analyze medical education funding priorities.
- Ongoing review of biomedical research priorities funding policies.
- Review of infant health demonstration options
- Development of Foster Care and Adoption Assistance priorities.
- Development of broad Federal social services strategy and simplification of budget decision making process for numerous social services programs.
- Monitor implementation of drug abuse initiative.
- Reform of Railroad Sickness and Unemployment Insurance program.
- Develop and analyze action to promote lower errors in the administration of public assistance programs.
- Development and implementation of regulation for disability insurance.

LABOR, VETERANS AND EDUCATION DIVISION

This Division has the following principal program areas: education; employment and training; workplace standards; unemployment, private pension, and workers' compensation; labor relations; veterans' benefits and services; the arts and humanities; and domestic volunteer service programs. The Division examines the budget requests, programs, legislative proposals, and operations of the Department of Labor, the Department of Education, the Veterans Administration, and 27 independent agencies, commissions, and boards. These agencies have total estimated outlays of over $75 billion and about 249,000 full-time equivalent employees in the President's 1989 budget.

MAJOR WORKLOAD IN 1988

- Help develop and review over 100 individual legislative proposals, testimony and enrolled bill memos; analyze and respond to hundreds of congressional and public inquiries; process nearly 420 apportionments; review for accuracy over 100 Executive Office of the President briefing materials.
- Continue review of the $27 billion program of medical care, education, housing, life insurance, and income assistance for veterans and their dependents. During 1988 efforts continued to improve OMB's analyses of VA's: (a) compensation and pension and readjustment benefit caseload and average benefit forecasts, (b) hospital operations (c) construction project development processes, (d) modernization of operations, and (e) loan guarantee revolving fund operations.
- Conduct a thorough review of Veterans Administration's health care system, which includes hospital and nursing home capacity, service delivery, support structures, and implementation of eligibility and financing changes.
- Provide required staff support on the proposal to make the Veterans Administration a Cabinet agency.

- Analyze and help develop budget recommendations for training and employment programs with outlays estimated to be in excess of $5 billion in 1988 and the unemployment, pension, and workers' compensation programs with spending of about $15 billion in 1988. Also review the budgets of numerous programs located in eight separate labor-related agencies. The programs deal with the collection of employment, price, and wage statistics and the establishment and enforcement of standards that affect the relationship between employers and employees (i.e. minimum wage, overtime pay, equal employment opportunity, welfare and pension plans, job safety and health, and labor-management relations) and between union members and union officials.
- Analyze in detail Administration and/or congressional legislative proposals to reform the Davis-Bacon and related Acts, the Service Contract Act, and the Federal-State Unemployment Insurance and Employment Service System; assure confidentiality in government statistics programs; advance equal employment opportunity; establish a new comprehensive worker adjustment program; reform the private pension system and improve the solvency of the pension guaranty program; raise the Federal minimum wage; and mandate a variety of employee benefits such as parental and medical leave, advance notice of plant closings, and prohibition of certain construction company arrangements.
- Analyze and develop recommendations for budget and program policy for Education Department programs with estimated outlays of $19 billion in 1988. Also analyze and develop recommendations for budget and program policy for twelve independent education and cultural program agencies.

EXPECTED EMPHASIS FOR 1989

- Continue to assess the Veterans Administration's health care system, including hospital capacity, delivery, and support structures.
- Continue to assess the operations of the Veterans Administation's loan guarantee revolving fund.
- Work with the Veterans Administration to make further improvements in the way in which VA analyzes its budget needs, including the development of better output measures, better benefit-cost analyses, and better outlay forecasting.
- Assess proposals to modify unemployment compensation and employee benefit laws, and a proposal to reform the summer jobs program giving local job training programs the flexibility to use those resources for year round training for dropouts.
- Continue the assessment of the effectiveness and efficiency of the various labor standards programs.
- Develop policies and proposals for the reauthorization of the vocational education statute.
- Continue and expand analyses of student aid policies.
- Expand work on multi-year research and evaluation for major program areas.

HUMAN RESOURCES, VETERANS, AND LABOR SPECIAL STUDIES DIVISION

The Special Studies Division undertakes in-depth and cross-cutting analyses of issues and problems related to the Departments of Labor, Education, and Health and Human Services, the Veterans Administration, and numerous small agencies. The Division also helps to implement Presidential decisions and initiatives for agencies concerned with human resources, labor, and veterans programs.

MAJOR WORKLOAD IN 1988

Approximately 25 percent of the Division's time was spent in providing technical and analytical assistance to the budget and other OMB divisions, including assistance in costing budget and legislative proposals; use of program and population data bases in analysis; and legislative, regulation and forms clearance. The remainder was devoted largely to major efforts in the following areas:

- *Special Populations*. Continued analyses to improve the knowledge base for policy making and for measuring the impact of Federal programs and policies on poor women, children, youth, the elderly, the homeless and other population groups. Initiated studies of selected populations using newly available data from the Survey of Income and Program Participation.
- *Long-term Care*. Continued analyses of financing and service arrangements for long-term care for the aged and non-aged in institutions and in the community.
- *Health Care*. Continued multiple analyses related to health care.

- *Cash and In-Kind Benefit Programs.* Continued activities to analyze the interrelationships and impact of cash and in-kind benefit programs.
- *Resource Consumption.* Continued efforts to analyze the consumption of resources in major Federal benefit programs. Used these efforts to assess the contribution of these programs to individual and family well-being and to develop program reform options, e.g. welfare reform.

EXPECTED EMPHASIS FOR 1989

Efforts in areas listed above will be continued, as follows:

- Multiple benefit recipiency efforts will include additional analysis of data from the Survey of Income and Program Participation for program and policy development purposes.
- Efforts to analyze the consumption of resources in major Federal benefit programs and to assess the contribution of these programs to individual and family well-being will continue.
- Analyses of long-term care programs and financing will continue.
- Work on special populations will focus on improving understanding of the implications of demographic changes, economic cycles and government programs on the status of children, youth, women and the elderly.
- Analyses of health-care reform options will continue.

ECONOMICS AND GOVERNMENT PROGRAM DIVISIONS

ASSOCIATE DIRECTOR

The Program Associate Director for Economics and Government provides executive direction and coordination for the following three program divisions: Transportation, Commerce, and Justice Division; Housing, Treasury, and Personnel Division; and the Economics and Government Special Studies Division.

TRANSPORTATION, COMMERCE, AND JUSTICE DIVISION

The Transportation, Commerce, and Justice Division reviews the budget and program plans of three cabinet departments and 16 other agencies and establishments. These agencies in 1988 employ the equivalent of more than 186,085 fulltime workers and expend about $35 billion (budget authority). Most of the Division's budget authority and outlay programs are relatively controllable. This contrasts with relative uncontrollability for budget outlays as a whole and means that the division has a large number of issues on which policy, legislative, and program decisions must be made.

The Division's work encompasses a wide range of programs: basic governmental services, user-financed capital and operating programs, business and urban assistance, promotion of privatization initiatives, weather service modernization R&D, and regulatory functions. The issues which the Division addresses include legislative matters affecting general Federal law enforcement; drug enforcement; immigration reform; prison construction and management; border control; communication; antitrust, procurement, intellectual property; international competitiveness; community and economic revitalization; international trade promotion; statistical data collection and analysis; natural resources management and regulation; scientific observations, mapping, and research; business activity promotion and deregulation; transportation regulation; transportation safety; operating and capital assistance for aviation, highway, mass transit, coast guard, maritime, and rail activities.

MAJOR WORKLOAD IN 1988

The Division's workload is concentrated on issues in the areas of transportation assistance and regulatory reform, privatization of Federal activities, domestic commerce and international trade, Federal law enforcement and basic Government information collection and services. Within the Justice Department, continue oversight of the implemention of the sweeping immigration reform bill by the Immigration and Naturalization Service will require extra effort and attention as will the implementation of the Administration's lead agency assignments as they pertain to anti-drug programs.Recent sentencing reform and the resulting large increases in the Federal prison population wil result in much closer monitoring of Federal prison management and expenditures. Furthermore implementation of the criminal justice assistance program will need to be monitored.Within the Department of Justice continuing efficiencies in better management of workload will be sought in law enforcement activities. Continue emphasis will be placed on achieving management savings. Work in all areas includes:

- Operations reviews of several personnel-intensive functions of the Federal Government— the Federal Aviation Administration, the Coast Guard, the National Oceanic and Atmospheric Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, the Bureau of Prisons, the Panama Canal Commission; and the Federal Communication Commission; continue to be a special focus of Division attention.

- Continuing efforts to meet debt collection targets, implement credit reform in certain agencies including transition to a subsidy-based method of budgeting for Federal credit programs, achieving improving loan origination policies to achieve lower default rates, monitoring loan asset sales, and otherwise implementing budget policy to restrain and target Federal credit assistance.
- In conjunction with other Federal agencies, particularly DOT, monitoring and analyzing congressional proposals regarding infrastructive financing.
- Monitoring Congressional proposals to make the FAA an independent agency and analyzing the reports of the Byrd Aviation Safety Commission and the President's Commission on Privitization regarding FAA.
- Implementing the multi-year Surface Transportation and Relocation Assistance Act.
- For the merchant marine, developing proposals to limit, reduce, reform, or terminate Federal subsidies.
- Reviewing authorization proposals to revise trade policy.
- Monitoring the status of the user-financed Highway Trust Fund and its long-term financial viability.
- Working with DOT to develop generic legislation to dispose of Amtrak, the government subsidized passenger railroad.
- Monitoring transportation safety programs to ensure efficient use of Federal dollars.
- Analyzing air traffic control modernization proposals to ensure efficient use of Federal dollars.
- Reviewing and making suggestions on the appropriate Federal role vis-a-vis states, localities and individuals in law enforcement.
- Monitoring proposals for funds appropriated to the Navy for Coast Guard programs.
- Seeking greater efficiencies in general Government functions and processes, including but not limited to better service at ports-of-entry, better control over entry of undocumented individuals, and greater emphasis on Federal law enforcement.
- Reviewing and making recommendations on major law enforcement initiatives such as the recently passed drug and immigration reform bills and the need for additional prison capacity.
- Continuing oversight of the implementation of immigration reform legislation.
- Reviewing implementation of the immigration inspection user fee.
- Participating in formulation and coordination of Federal drug law and immigration enforcement policies, programs and budgets. Performing primary OMB staff work for the National Drug Policy Board.
- Assisting in the development of and supporting the enactment of the U.S. Travel and Tourism administration fee.
- Monitoring the proposals to eliminate several Federal programs, including arranging for the transfer of residual functions and orderly phase out of operations. Assistance to AMTRAK, EDA, ICC, ARC, NOAA's Sea Grant and Coastal Zone Management state grants, Trade Adjustment Assistance for firms and grants for public telecommunications facilities are included.
- Analyzing and monitoring congressional proposals regarding transportation deregulation in aviation, trucking and railroad transport and sunsetting of the ICC.
- Monitoring commercialization of the land remote sensing satellite system (LANDSAT) to assure that any necessary subsidies are kept to a minimum and that the Federal commitment is time limited.
- Analyzing alternatives for continuing launch and spacecraft procurement costs of weather satellites.
- Analyzing and monitoring Congressional proposals regarding airline passenger consumer protection and airline employee labor protection.
- Monitoring Congressional efforts to codify the Fairness Doctrine.

- Monitoring the progress and analyzing findings of the White House Conference for a Drug Free America.
- Monitor the railroad industry's financial performance and potential incidents of secondary picketing by railroad unions.
- Assisting with the development of an Administration proposal to assess a fee for spectrum use.
- Monitor modernization of the National Weather Service program to assure that the program is implemented in the most cost-effective manner.
- Analyzing and monitoring the automation of the Patent and Tradmark Office.
- Analyzing a host of policies aimed at improving the nation's international trade and intellectual property systems.
- Reviewing the administrative systems and personnel in three cabinet departments and 16 other agencies.
- Reviewing the collection of current and periodic census surveys for quality and efficiencies.
- Assessing privatization options for a Federal-operated transportation research facility and the National Technical Information Service.
- Monitoring congressional action on certain of the Administration's user fee proposals.
- Reviewing and tracking legislation of the Panama Canal Commission's financing structure from a special fund to a revolving fund.
- Monitoring congressional proposals to reauthorize the National Transportation Safety Board.
- Monitoring Federal efforts to review private proposals to launch commerical space vehicles and payloads.
- Monitoring congressional proposals to reauthorize the Federal Trade Commission.
- Analyzing and monitoring the enactment of legislation for the defederalization of the Transportation System Center.

EXPECTED EMPHASIS FOR 1989

Workload for the Division in 1989 is expected to exceed that for 1988. Proposals already made for programmatic change will require monitoring as they are considered in the Congress and implemented. Sustained activity to bring greater control to the Federal budget will require new analysis. Because a large proportion of the outlays overseen by the Division is controllable, the workload is expected to be especially heavy. Examples of major new work efforts include:

- Monitoring and evaluating the Administration's user fee and privatization proposals as they are acted upon by the Congress.
- Monitoring conduct of the quinquennial censuses of economics and agriculture.
- Assessing preparation for the conduct of the 1990 Decennial Census.
- Monitoring implementation of immigration reform legislation, particularly operation of the legalization program which is to be funded by application fees.
- Reviewing the implementation of management reform activities.
- Monitoring implementation of the multi-year Surface Transportation Reauthorization Act and various motor carrier safety regulations
- Evaluating effectiveness and savings to be achieved through recent substantial capital investments in the air traffic control system.
- Facilitating availability and monitoring use of funds appropriated to the Navy for Coast Guard programs.
- Reviewing legislative proposals related to program areas.
- Working with DOT to monitor and evaluate AMTRAK's performance.
- Monitoring and analyzing Congressional proposals to reauthorize the Corporation for Public Broadcasting.
- Monitoring legislative proposals to reform the maritime operating subsidy program.
- Analyzing the reports of the Merchant Marine and Defense Commission and tracking congressional proposals that arise in response to those reports.

- Monitoring the management of the Ready Reserve Force to ensure a smooth funding transition from the Navy to the Maritime Administration.
- Tracking authorizing legislation for the Maritime Administration, the Federal Maritime Commission and the Panama Canal Commission.
- Tracking legislative proposals to amend/expand the Federal Maritime Commision's authority to combat unfair international maritime trade practices.
- Evaluating savings to be achieved through contracting out a wide variety of Federal services—e.g., air traffic control maintenance, and similar activities.
- Continuing to review the automation of patent and trademark applications.
- Reviewing implementation of new law enforcement initiatives, especially those concerning export control and drug trafficking.
- Monitor expenditures of the unprecedented level of funding granted the Department of Justice for prison construction.
- Develop, with the Department of Justice, viable prison leasing arrangements.
- Monitor the phaseout of the U.S. Parole Commission.
- Assessing domestic and international telecommunications policy and legislative proposals.
- Participating in formulation and coordination of Federal drug policies, programs and budgets.
- Monitoring and analyzing Congressional proposals regarding transportation deregulation and sunset of the ICC.
- Monitoring and analyzing investment group and Congressional developments regarding infrastructure financing.
- Conducting in-depth analyses of FAA programs and goals in preparation for a long-term, post-1990 reauthorization bill.
- Assessing international trade policies and legislative proposals.
- Participating in formulation of intellectual property policies.
- Monitoring National Weather Service program modernization.
- Monitoring Landsat commercialization.
- Monitoring Federal credit reform initiatives.
- Continuing coordination and monitoring of Administration response to recommendations of the 1988 White House Conference for a Drug Free America.
- Monitoring and evaluating six grant programs administered by the Department of Justice.
- Overseeing the operations of the Commission on the Bicentennial of the U.S. Constitution.
- Monitoring the debt collection effort of the Department of Justice and Commerce to assure targets are met and DOJ's Debt Collection fund is properly established and monitored.
- Promoting the use of innovative litigation techniques to increase collection of funds owed the government through forfiture actions and recoveries lost due to fraud, waste and corruption.
- Monitoring Congressional action on the Administration's proposal to terminate essential air service subsidies.
- Work with DOT to evaluate the safety field office structure of the Federal Railroad Administration.
- Monitoring Congressional proposals to reauthorize AMTRAK. Assisting in the implementation of the President's Privitization Commission.
- Evaluating and tracking Congressional proposals to reregulate the railroad industry.
- Monitoring the Administration reauthorization bills for hazardous machine transportation and pipeline safety transportation.

HOUSING, TREASURY AND PERSONNEL DIVISION

The Housing, Treasury and Personnel Division reviews the budget and program plans of two cabinet departments, two major small agencies (SBA and FEMA), the United States Postal Service and 20 other agencies and establishments. These agencies in 1988 will employ the equivalent of more than one million fulltime workers and will expend over $30 billion (budget authority). Much of the Division's budget authority and outlay programs are relatively controllable, i.e., discretionary, which means that the Division has a large number of issues requiring policy, legislative and program decisions.

The Division's work encompasses a wide range of programs: basic governmental services, user-financed programs, economic development and urban assistance, and regulatory functions. The issues which the Division addresses include law enforcement and drug policy, housing and mortgage credit policy: regulation and examinations of the thrift, banking and other financial industries; tax processing; small business activity; passenger and cargo processing at the borders; mail service; community and economic revitalization; housing assistance; tax and tariff administration; and federal emergency and disaster relief policies.

MAJOR WORKLOAD IN 1988

The Division's workload is concentrated on issues in the areas of economic and community development, basic Government financial and debt management services assistance to small businesses, financial institution reform, tax and tariff administration and Federally assisted housing and credit programs. Work includes:

— Efforts to achieve debt collection targets, examine loan portfolios to achieve lower default rates, and otherwise implement budget policy to restrain and target Federal credit assistance.

— Providing analyses to support the Administration's efforts to reform the secondary mortgage market and encourage greater private sector participation in that market.

— Monitoring the applicability of Gramm-Rudman-Hollings Act to Division Agencies, especially independent regulatory agencies and previously "off-budget entities", such as the Postal Service.

— Monitoring the proposals to eliminate several Federal programs including arranging for the transfer of residual functions and orderly phase out of operations for UDAG and HoDag, rehabilitation loans, housing counseling, the Postal revenue foregone subsidy and SBA direct loans.

— Analyzing alternatives for Federal support for public housing operating costs and renovation requirements, including reviewing recent HUD research on the condition of the public housing inventory and implications for the Federal budget.

— Reviewing FHA activities to establish more efficient approaches and ensure FHA insurance does not compete with or preclude private market mortgage activities.

— Monitoring and reviewing changes in thrift and banking industries in the new deregulatory environment, follow up on the Vice President's Task Force study on regulatory reform of the structure of the Federal financial institutions, and participate in the Administration's review of the adequacy of premiums charged to the depository institutions.

— Evaluating the effectiveness of Customs drug interdiction program relative to those of other law enforcement agencies.

— Assisting HUD in implementation of the Housing and Community Development Act of 1987, which passed Congress on December 21, 1987.

— Working with Treasury and the bank regulators in carrying out the FSLIC recapitalization legislation (CEBA), which was enacted on August 10, 1987.

— Monitoring the implementation of homeless legislation (The McKinney Act.)

— Reviewing, with OIRA, IRS resource needs and plans for implementing the tax system redesign project.

— Analyzing alternatives to reform current housing and community development support for Indians.

— Reviewing credit and grant assistance to state and localities intended to promote economic and community development, as well as the proposed urban enterprise zones program.

— Reviewing the implications of tax reform.

— Assisting in implementing the Administration's program to improve civil defense and other emergency-response systems.

— Working with Treasury Department to secure Congressional enactment of legislative changes to currently enacted ad valorem import duty (Customs "user fee") to make the user fee consistent with GATT requirements.

EXPECTED EMPHASIS FOR 1989

Workload for the Division in 1989 is expected to exceed that for 1988. Proposals already made for programmatic change will require monitoring as they are considered in the Congress and implemented. Sustained activity to bring greater control to the Federal budget will require new analysis. Major new efforts this year include:

— Continued analysis and development of detailed proposals to privatize the secondary mortgage market and the involved Federal entities: FNMA, GNMA and the FHLMC.

— Continued review with SSD/EG of the adequacy of the insurance funds maintained by the depository institution regulators (FDIC, FHLBB and NCUA) and implementation of the FSLIC recapitalization legislation.

— Analyzing regulatory reforms for financial institutions and the financial services industry–those that have been adopted and those under consideration, including various proposals to restructure the stock and stock index futures markets, such as the Brady Commission, in light of the Black Monday stock market crash.

— Evaluating the effectiveness of Rental Rehabilitation and Rental Construction Grant programs enacted in the 1983 Housing/IMF Bill.

— Evaluating of results of housing voucher program.

— Reviewing the implementation of management reform activities.

— Analyzing further proposals for cutting costs and improving management of the 4.3 million unit HUD subsidized housing inventory, including tenant income verification procedures and rent collection quality control efforts.

— Evaluating the modernization needs of public housing and proposed program changes.

— Analyzing recent increases in the defaults and asset acquisition of FHA and GNMA.

— Continued monitoring of the implementation of the McKinney Act and other programs addressing the needs of the homeless.

— Developing a new Administration civil defense policy in light of the President's issuance of a NSDD on this subject.

— Reviewing operations of IRS service centers and effective use of additional 1989 resources to assure a smooth implementation of Tax Reform changes.

— Extending with SSD/EG the OMB developed alternative for increasing tax compliance through penalties or other market oriented incentives, as an alternative to more costly enforcement staff increases.

— Continued analysis of specific proposals for promoting greater use of private alternatives to Federal mortgage insurance.

— Analyzing with Postal Service alternatives for changing the relationship between Postal Service and Federal government.

— Developing a new entity within Treasury to implement 1989 credit reform initiative.

— Continued evaluation of the effectiveness of automation and other uses of capital to improve delivery of commercial processing activities of U.S. Customs Service.

— Working with SSD/EG in analyzing the condition of the HUD-FHA insured multifamily housing inventory in light of economic pressures upon owners of these housing units to convert their projects to other, non-subsidized housing usages.

— Reviewing alternate means of funding the Federal Law Enforcement Training Center, i.e., determining the appropriate mix of direct and reimbursable costs of basic training.

— Continued evaluation of the effectiveness of the Customs air interdiction program.

— Evaluating privatization options in Customs, IRS, the Postal Service, and in other Treasury bureaus.

— Developing legislation to correct GATT-identified inconsistencies in the customs user fee.

— Reviewing the efficacy of the fine and penalty provisions contained in the Internal Revenue Code and the Federal Alcohol Administration Act.

— Evaluating with Treasury methods for estimating financial obligations incurred by the Bureau of Engraving and Printing.

— Studying privatization alternatives for the SBA Procurement Automated Source System (due from SBA this spring).

- Working with SBA and OMB Economic Policy staff to develop and evaluate a SBA credit-voucher pilot project.
- Developing legislation to consolidate the Minority Business Development Agency into SBA, and continue working on improvements to the Minority Small Business/Capital Ownership Development program.
- Evaluating the effects of the 1987 OBRA on Postal Service costs and services to the public.

ECONOMICS AND GOVERNMENT SPECIAL STUDIES DIVISION

Alone, and in cooperation with the budget divisions, this division undertakes indepth analyses of policy, budget, and management issues of major Federal programs, concentrating on the Departments of Commerce, Treasury, Justice, Transportation, and Housing and Urban Development, the U.S. Postal Service, Small Business Administration, and the financial regulatory agencies to provide a better analytical basis for decisions on the Administration's budget and legislative program. In addition, the Division coordinates within OMB, the Executive Office of the President, and interagency review groups the analysis, policy development, and implementation of multi-agency or governmentwide issues.

MAJOR WORKLOAD IN 1988

- Prepare the needs assessment portion of the "Infrastructure Report" supplement to Special Analysis D of the President's budget.
- Use and refine of a thrift industry policy simulation model and to perform financial analyses of the industry, estimate Federal liabilities incurred through the deposit insurance system, and analyze proposals to reform the deposit insurance system.
- Analyze optimal levels of IRS tax enforcement, appropriate tax penalties, and the impacts of the staffing and penalties on voluntary compliance by taxpayers.
- Review Postal Service forecasts of mail volume, revenue, and expenditures and analyses of potential improvements in productivity.
- Analyze major Federal telecommunications policy proposals and issues.
- Develop models to structure and evaluate the various Federal insuring agencies' policies of asset disposition in terms of recovery efficiency.
- Analyze Administration urban policies, including UDAG and enterprise zone proposals.
- Develop and maintain a data base on state and local financial variables to develop alternate measures of state and local fiscal conditions.
- Analyze the effectiveness of selected Federal credit programs.
- Use the 1985 American Housing Survey and Survey of Income and Program Participation to update needs estimates for subsidized housing, and look at who uses the housing programs
- Analyze the coordinated workflow and resources needs of the Federal criminal justice system.
- Coordinate policy review of the annual *Small Business Report of the President*.
- Analyze and evaluate opportunities to privatize Federal activities, and dispose of nonessential Federal assets.
- Monitor the impact of Federal tax reform on housing and the fiscal condition of State and local governments.
- Review and analyze issues concerning equity and the efficient administration of subsidized housing programs.
- Review and analyze the FAA safety inspection program and air safety issues.
- Study resources devoted by State tax collection agencies to enforcement and taxpayer services, to determine the impact of IRS taxpayer service activities.

EXPECTED EMPHASIS FOR 1989

- Prepare the needs assessment portion of the "Infrastructure Report" supplement to Special Analysis D of the President's budget.
- Apply the Annual Housing Survey data base and Survey of Income and Program Participation to evaluate the efficiency and equity of current housing programs and to assess actual needs for subsidized housing.

- Continue analyses of Federal telecommunications policy issues.
- Evaluate changes in State and local fiscal conditions within a fiscal federalism framework, based on the data base of State and local fiscal variables.
- Continue analysis of Federal policies towards the banking and thrift industry and reforms of the deposit insurance system.
- Expand models developed to determine optimal levels of IRS tax enforcement to address other government enforcement activities.
- Continue monitoring and assessment of the impact of tax reform on the fiscal condition of state and local government.
- Continue assessment of opportunities for privatization of public functions.
- Continue analysis of the coordinated workflow and resource needs of the criminal justice system.
- Continue review of the efficiency and equity of subsidized housing programs.
- Re-evaluate formulas used to distribute CDBG and other grants-in-aid using newly-developed indicators of need.
- Continue to review and analyze the FAA safety inspection program and air safety issues.
- Continue to review the budgetary impact of forecasts of the U.S. Postal Service.

NATURAL RESOURCES, ENERGY, AND SCIENCE PROGRAM DIVISIONS

ASSOCIATE DIRECTOR

The Associate Director for Natural Resources, Energy, and Science provides executive direction and coordination for the following three program divisions: Natural Resources Division; Energy and Science Division; and the Natural Resources, Energy, and Science Special Studies Division.

NATURAL RESOURCES DIVISION

This staff has responsibility for examining and making recommendations on the budget submissions and program levels of 15 agencies with gross budget and lending authority of over $50 billion and staffing levels of over 200,000 positions. This Division examines budget requests, programs, operating methods, regulations and legislative proposals of the agencies and programs assigned to them. The Division reviews Federal public works projects in the water resources area prior to their transmittal to Congress for authorization and also analyzes special problems affecting natural resources and the environment. The Division handles over 750 reports, draft bills, testimony and floor statements on legislation per year, reviews over 700 draft and proposed regulations per year and reviews over 300 program or project analyses per year.

MAJOR WORKLOAD IN 1988

- Respond to demands from all sources for budgetary data and quick analyses of alternatives throughout the preparation and enactment of the budget and the November 1987 bipartisan budget agreement.
- Continuous review and evaluation of environmental programs, including pollution control and abatement, the grant program for municipal sewage treatment facilities, and the control and clean up of hazardous waste dump sites. Legislative proposals and regulations in all major environmental programs continue to place heavy workload demands on this Division.
- Continue to participate in working group activities for Domestic Policy Council issues on the environment and to perform staff work on environmental issues for the Vice President's Task Force on Regulatory Relief.
- Coordinate Federal facility compliance with pollution abatement requirements under OMB Circular A-106.
- Develop outlay estimating models for all USDA accounts, including the Commodity Credit Corporation.
- Begin preliminary assessments of needed changes in programs in preparation for development of the next major farm bill.
- Continue to review and evaluate the agricultural credit programs including those of the Farm Credit Administration and the Farmers Home Administration, including staffwork on ways to deal with lagging credit worthiness of farm operations. Seek changes in egregious provisions of recently enacted Farm Credit Act.

— Monitor implementation of pilot rural housing voucher program.

— Continue to review and evaluate the agricultural research programs with the objective of achieving more basic and less applied research including evaluation and closing of low priority Federal research facilities.

— Continue evaluating rural area economic and social problems to ensure that the Administration's rural development initiative is correctly targeted.

— Review and consult with the Army Corps of Engineers on implementation of the cost-sharing and user-fee revisions of the Water Resources Development Act of 1986 (P.L. 99-662).

— Under Executive Order 12322, conduct policy and technical reviews of reports on projects proposed by the Army Corps of Engineers, the Bureau of Reclamation (Interior), and Agriculture's Soil Conservation Service (SCS) before such reports are transmitted to Congress.

— Review proposed and ongoing water resource projects, and proposed cost-sharing agreements between non-Federal sponsors and the Army Corps of Engineers, the Bureau of Reclamation, and the Soil Conservation Service.

— Coordinate development and implementation of new surplus-crop, normalized prices free of subsidy for evaluation of Federal water resource projects.

— Provide staff work on legislative proposals to open the coastal plain of the Arctic National Wildlife Refuge to oil and gas leasing and to assure a fair market value return to the U.S. Treasury.

— Provide staff work on energy and minerals, public lands issues, especially for oil, gas, and coal development that may result in significant Federal and State revenues.

— Consult with the Forest Service on program management with the objective of achieving increased productivity and reduced Federal costs.

— Analyze proposals for improvements in National Park and Fish and Wildlife Systems land acquisition, sale or exchange of public lands, and for improving the efficiency of Fish and Wildlife Service operations.

— Review numerous legislative transactions involving the public lands.

— Continuous analysis of Indian programs such as education and housing, welfare, reservation resources and economic development, water rights, and improved internal operations of the Bureau of Indian Affairs. Financial assistance to U.S. Territories and the Trust Territory of the Pacific Islands, including the Compact of Free Association implementation, also receives staff attention.

— The Division is working with departments and agencies on Reform 88 projects, such as more efficient use of personnel, debt collection, and internal financial control, and administrative systems upgrading as well as review and information of recommendations from the President's Private Sector Survey on Cost Control.

— Continuous review of Federal agricultural export programs; including the development of alternative export credit, subsidy and CCC stock disposal concepts.

— Staff work is done in public land sales and exchange issues in conjunction with the Departments of the Interior and Agriculture.

— Participate in studies to determine whether new leasing initiatives are possible.

EXPECTED EMPHASIS IN 1989

The primary emphasis in FY 1989 will be determined largely by the need to follow through on the current Administration's initiatives as well as provide analyses for the incoming Administration. Major analyses and staff support work in budget matters across the board, as well as work in cost-reducing legislation, is expected.

The Division will also concentrate efforts in analyzing and implementing a number of pieces of legislation, including:

— Army Corps of Engineers, Bureau of Reclamation and Soil Conservation Service projects authorizations, cost-sharing, and program improvements.

— Resource Conservation and Recovery Act; Federal Insecticide, Fungicide, and Rodenticide Act; Clean Air Act; and Toxic Substances Control Act.

— Proposals for agricultural export assistance, commodity donations, and subsidies to rural electric and telephone systems.

- Implementation of the compact of Free Association and other legislation relating to the Trust Territory of the Pacific Islands.
- Amendments to the 1985 Farm Bill.
- Continue to prepare the groundwork and analysis necessary for the next major Farm Bill.
- Proposals for leasing of oil and gas in the Arctic National Wildlife Refuge.
- Proposals for responding to requirements for agency provision of employee housing.

ENERGY AND SCIENCE DIVISION

This Division reviews, analyzes, and makes recommendations on Federal government policies, programs, legislative proposals, budget requests and agency management initiatives in energy, science, space, and related areas of government activity. It helps develop, integrate and coordinate Federal energy, science and space policies, programs and budgets across agencies.

The major agencies for which the Division has direct responsibility include the Department of Energy (DOE), the National Aeronautics and Space Administration (NASA), and the National Science Foundation (NSF). The Division also has direct responsibility for the Federal Energy Regulatory Commission (FERC), the Nuclear Regulatory Commission (NRC), the Office of Science and Technology Policy (OSTP), the Smithsonian Institution, including the National Gallery of Art, and the Woodrow Wilson Center (WWC), and the Tennessee Valley Authority (TVA).

The Division works continually to identify appropriate oportunities and to provide analytic support for Administration efforts to reduce deficit spending. The Division also monitors the progress of agency and Congressional actions on Administration legislative and budget proposals. It also monitors closely agency implementation of Congressionally approved programs.

To carry out these responsibilities, the Division hires, trains and supports qualified staff necessary to:

- Develop and maintain knowledge of all aspects of the missions, policies and programs of assigned agencies, the related programs of other Domestic, Foreign and International agencies, and the related activities of the states and private sector.
- Ensure timely identification of agency and interagency issues and provide critical analysis of options for their resolution, including policy, program and budget implications.
- Help achieve timely, effective implementation of Administration policy and program plans through budget, legislative and regulatory processes.

MAJOR WORKLOAD IN 1988

The Division's workload in 1988 includes the following:

- Assist in the development and implementation of policies and programs that will strengthen the base of science and technology to enhance U.S. global competitiveness.
- Assist in implementing the provisions of the recently passed Nuclear Waste Act Amendments.
- Assist in developing policies necessary to improving the management of the DOE Uranium Enrichment Enterprise.
- Closely monitor NASA activities to safely resume Shuttle flights and to implement the recommendations of the Rogers Commission on the Shuttle accident.
- Assist in ensuring that the Department of Energy (DOE) maintains the ability to provide an adequate supply of special nuclear materials in light of current problems at DOE production rectors.
- Monitor DOE implementation of the Clean Coal Technology Program to ensure that the solicitation and negotiation process is handled expeditiously, to ensure that the project selection criteria satisfy programmatic objectives, and to ensure individual projects are financially sound, as well as monitor legislative and regulatory initiatives that could impact on program effectiveness and operations.
- Participate as appropriate in the review and consideration of space policies by the Economic Policy Council and the Senior Interagency Group (Space), and issues related to continued U.S. leadership in space.
- Track the progress cf ongoing reviews of the Space Station Program and the effective resolution of program, schedule, and funding issues. Monitor the progress of implementation of the recommendations of the National Research Committee on Space Station. Participate in

interagency efforts to complete negotiations for international participation on the Space Station Program.

- Monitor ongoing DOE efforts to develop and fill the strategic petroleum reserve and help establish necessary financial and accounting procedures for financing future fill from the proceeds of the sale of the Naval Petroleum Reserves.
- Monitor DOE efforts to sell the Great Plains Coal Gasification Plant to ensure the operations and financial soundness of any proposal to transfer ownership to a nonfederal entity.
- Encourage and monitor DOE planning and development of proposals for non-nuclear cooperative R&D ventures.
- Monitor efforts of the Tennessee Valley Authority (TVA) to restart its Nuclear Power Program, and review proposals for improvements in TVA management, organization, and financing.
- Monitor the progress of the National Aerospace Plane Program and the Advanced Launch System jointly conducted by NASA and DOD and help to ensure the effective coordination of programs and funding between NASA and the Department of Defense.
- Continue efforts to revitalize the domestic oil and gas industry through legislative actions to repeal the windfall profit tax, deregulate natural gas and deregulate oil pipelines,
- Monitor and assess the progress of major new programs of the National Science Foundation (NSF), such as the Engineering Research Centers, the Advanced Scientific Computing Centers, and the Science and Technology Centers.
- Participate in international consultation and negotiations,under the leadership of the U.S. Trade Representative with other nations on space launch services.
- Continue to track progress of major new nuclear accelerator to be constructed at Newport News, Virginia.
- Monitor efforts by the National Science Foundation to provide U.S. presence in the Antarctic through the United States Antarctic Program (USAP), particularly regarding logistics support requirements.
- Monitor trends and developments in U.S. science, space and aeronautics policy and assess key program, policy, and budget implication
- Monitor progress in collaborating with the U.S.S.R. on fusion energy, as proposed by the President in Geneva.
- Monitor and assess program and funding issues for the Smithsonian Institution, the National Gallery of Art, the Woodrow Wilson International Center for Scholars, and the Office of Science and Technology Policy.
- Promote and monitor agency progress toward the Administration's management improvement initiatives, including "Reform 88", the President's Private Sector Survey on Cost Control., and agency management improvement plans.

EXPECTED EMPHASIS IN 1989

Major responsibilities to which the Division expects to devote staff resources in the 1989 budget include the following:

- Continue to monitor and assess the level of overall Federal spending for research and development, especially for basic research.
- Closely monitor the build-up in funding for the development of the Space Station leading to operational capability in the mid-1990's.
- Continue to monitor the implementation of management and financial restructuring of the Uranium Enrichment Enterprise.
- Monitor site selection and funding of the Superconducting Super Collider (SSC).
- Closely monitor issues and problems related to implementation of FERC regulatory proposals to increase competition in the electric utility industry.
- Oversee the establishment of a new isotope sales and distribution account and new management of this program at DOE.
- Oversee the establishment of a new user facility operations account for all scientific user facilities at DOE.
- Oversee the establishment of a new Science and Technology Centers Program within NSF.

- Assist in assuring effective coordination of the DOE Nuclear Weapons Program with the needs and requirements of the Department of Defense, in particular, monitor the progress of DOE technologies being developed to support the President's Strategic Defense Initiative.
- Continue oversight of a second construction project to solidify nuclear waste from Defense programs.
- Monitor and assess DOE efforts to choose a technology and site for a new nuclear materials production reactor.
- Monitor problems and issues related to major funding increases for the Federal support of basic research at the nation's universities and colleges and the relationship of such support to the nation's position in global markets.
- Continue to monitor closely the financial performance of the Power Marketing Administration including repayment of the unrecovered Federal investment.
- Monitor and review issues related to Federal efforts to encourage the development of human capital to help ensure sustained U.S. leadership in science and technology.
- Continue to monitor closely the DOE Civilian Nuclear Waste Program activities after congressional redirection of the Program.
- Monitor new space science and technology initiatives in 1989, including the Advanced X-Ray Astrophysics Facility and Project Pathfinder.
- Continue oversight of the operational readiness, physical security, and financial integrity of the Strategic Petroleum Reserve and help coordinate OMB participation in interagency policy development activities related to establishment and operation of a new Defense Petroleum Inventory.
- Closely monitor DOE implementation of Administration divestiture initiatives, as approved by the Congress, for the Naval Petroleum Reserves and Alaska Power Marketing Administration.
- Continue to track and analyze trends in private sector R&D and in U.S. energy supply and demand in order to assure an appropriately limited Federal role in these areas of the national economy.
- Continue to track and oversee agency implementation of management reform initiatives, including recommendations of the President's Private Sector Survey on Cost Control and agency management improvement plans.
- Monitor space commercialization and privatization efforts for Space Station, launch vehicles, the commercially developed space facility and other proposals in the President's commercial space initiative.
- Continue to monitor joint NASA and DOD programs, such as the National Aerospace Plane Program and the Advanced Launch System.
- Continue oversight of international participation in the Space Station Program.

In these monitoring efforts, the Division will continue to anticipate and identify key problems and issues arising in the Congressional legislative and appropriations processes and in agency implementation actions. In so doing, the division will also provide options for the resolution of issues in a timely and appropriate manner by key officials of OMB and the Administration.

NATURAL RESOURCES, ENERGY AND SCIENCE SPECIAL STUDIES DIVISION

This Division analyzes policy and program issues in the natural resources, energy and science functions to provide the necessary analytic framework benefit/cost analyses and other detailed information for the development of new or revised policies and funding levels as appropriate. The Division frequently participates in interagency task forces set-up to complete such analyses.

MAJOR WORKLOAD IN 1988

The Special Studies Division develops study plans, completes parts or all of the analyses, expedites scheduling/completion of work, assures quality and objectivity in methodology and work products. Final products typically are decision papers with options for a given policy or program issue.

- Domestic and *International Energy Security*. Working with participating agencies to complete an assessment of energy security.
- *Utility Program*. Evaluate selected utility program subsidy levels, effectiveness and impacts.

- *World Oil Price Impacts*. Complete analyses of prospects for changes in oil prices and impacts on policies, programs and the budget.
- *Strategic Materials/Minerals Policies/Programs*. Work with various agencies to evaluate strategic materials/minerals related policies and programs and alternatives.
- *Petroleum Supply Interruption Planning*. Work with energy agencies in evaluating threats and developing appropriate contingency policies/plan.

EXPECTED EMPHASIS FOR 1989

Anticipated projects relate to the following:

- Domestic and *International Energy Security*. Working with participating agencies to complete an assessment of energy security.
- *Utility Program*. Evaluate selected utility program subsidy levels, effectiveness and impacts.
- *World Oil Price Impacts*. Complete analyses of prospects for changes in oil prices and impacts on policies, programs and the budget.
- *Strategic Materials/Minerals Policies/Programs*. Work with affected agencies to coordinate and evaluate policies/programs and alternatives.
- Provide analytic support to NRES policy/budget issues as they arise in various working groups and interagency efforts.
- Evaluate the impact and cost of agriculture support programs.

OFFICE OF INFORMATION AND REGULATORY AFFAIRS

The Office of Information and Regulatory Affairs (OIRA) was established in January 1981 as required under section 3503 of the Paperwork Reduction Act of 1980 (P.L. 96-511). Under this Act (as amended by the Paperwork Reduction Reauthorization Act of 1986, P.L. 99-591), the Office is responsible for reviewing collections of information imposed on the public, providing principles, guidelines, and guidance concerning the acquisition, use, and management of federal information resources (including computers and telecommunications) and coordinating and giving policy direction to Federal statistical activities. In addition, the Office has responsibilities under the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 1104(d)), the Brooks Act (40 U.S.C. 759), the Freedom of Information Act (5U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), the Regulatory Flexibility Act of 1980 (5U.S.C. 601 et seq.), Reorganization Plan No. 2 of 1970 (84 Stat. 2085), Reorganization Plan No. 1 of 1977 (91 Stat. 1633), Executive Order No. 10033 (February 8, 1949), Executive Order No. 10253 (June 11, 1951), Executive Order No. 12046 (March 17, 1978), Executive Order No. 12291 (February 17, 1981), Executive Order No. 12318 (August 21, 1981), and Executive Order No. 12498 (January 4, 1985).

MAJOR WORKLOAD IN 1988

- Prepare the government-wide annual Information Collection Budget.
- Make modifications to and continue management of the Federal Information Locator System (FILS) as mandated by the Paperwork Reduction Act.
- Oversee and improve the Federal planning process to be used in the management of computer and telecommunications resources.
- Publish sixth five-year plan for acquisition and management of information technology resources.
- Initiate and conduct reviews of major mission critical information systems to ensure that the information resources are being efficiently and effectively managed.
- Maintain a comprehensive information policy to provide guidance to Federal agencies on the management and use of information resources, including information technology planning, acquisition and use; microcomputers; telecommunications; computer security; access and dissemination of information, etc.
- Review approximately 4,200 agency requests for action under the Paperwork Reduction Act.
- Oversee and improve government-wide planning process for conducting reviews of Federal information activities.
- Seek adoption of various legislative proposals to remove impediments to paperwork reduction and regulatory relief.
- Review about 250 legislative proposals with regulatory implications.

- Review about 165 regulatory proposals for alleviating Federal administrative burdens on State and local governments.
- Prepare the Administration's Regulatory Program for 1988 as required by Executive Order No. 12498.
- Review about 2,600 regulations under Executive Order No. 12291, 80 of which are major rules (and review their associated regulatory impact analyses).
- Publish the annual report to Congress on implementation of the Paperwork Reduction Act.
- Evaluate 60 reports on new or altered systems of records for conformance with the provisions of the Privacy Act of 1974 and determine the effect of those systems on the privacy and other personal property rights of individuals.
- Submit a report to the National Governors Association regarding their paperwork reduction and regulatory proposals.
- Through Executive Order Nos. 12291 and 12498 review processes, take actions to ensure the agency regulatory policies are consistent with Executive Order No. 12612, "Federalism."
- Prepare the Annual Report of the President on administration of the Privacy Act of 1974.
- Issue policies for improving the management of Federal software resources and reducing the costs of such activities through greater reliance on the acquisition of commercially available software packages.
- Issue policies and procedures to improve the internal management control programs by linking the security and integrity of automated information systems to internal control review activities.
- Together with the Regulatory Information Service Center, issue the Unified Agenda of Federal Regulations in October and April.
- Develop legislative and administrative proposal to improve the oversight and operation of agencies "matching programs."
- Oversee agencies' implementation of the revised fee provisions of the Freedom of Information Act.
- Review rules and capitalization requirements for the Information Technology Fund.
- Identify initiatives to further reduce paperwork burdens on Federal grantees, as required by the Paperwork Reduction Reauthorization Act of 1986.
- Publish in the *Federal Register* for comment, draft OMB Circular with revised guidelines for Federal statistical activities; review comments; issue final Circular.
- Prepare guidance for Federal agencies on developing plans to implement new statistical policy Circular; review agency plans and work with agencies to bring their statistical programs into conformity with the revised guidelines.
- Solicit comment through the *Federal Register* on the criteria for defining Metropolitan Statistical Areas (MSAs), as a prelude to defining MSAs following the 1990 census.
- Review the results of the 1988 census dress rehearsal and final plans for the 1990 Census.
- Review the agency evaluations of principal economic indicators scheduled to be submitted to OMB in 1988.
- Prepare annual report on Federal statistical programs and budgets, as required by the 1986 Amendments to the Paperwork Reduction Act.
- Continue, through sponsorship and chairmanship of the Federal Committee on Statistical Methodology, to promote development and government-wide application of advanced statistical methods.
- Following recommendations of the Economic Policy Council Working Group on the Quality of Statistics; (1) develop a long-range plan for methodological development and data collection for service sector statistics; (2) Designate central collection agencies to maintain lists of farm and nonfarm establishments for use as sampling frames in government economic surveys; and (3) in cooperation with Federal agencies and interested persons outside government, explore long-term strategies to improve statistics on international trade.
- Continue chairing Task Force on Household Survey Redesign, to plan a coordinated redesign of the major Federal household surveys following the 1990 census.

EXPECTED EMPHASIS FOR 1989

Major efforts planned in FY 1989 include:

- — Review of approximately 4,500 information collection transactions under the Paperwork Reduction Act.
- — Prepare and publish the government-wide Information Collection Budget.
- — Operate the Federal Information Locator System.
- — Develop a policy for improving the efficiency of data access and user services, and seek to increase public access to the system as required by the Paperwork Reduction Reauthorization Act of 1986.
- — Publish five-year plan for acquisition and management of information technology resources.
- — Initiate and conduct reviews of major mission critical information systems to ensure that the information resources are being efficiently and effectively managed.
- — Continue working with the National Governors Association and other organizations to achieve further progress in relieving burdens on State and local governments.
- — Develop and issue guidance on specific information resources management issues such as records management and electronic information collection and dissemination.
- — Jointly conduct reviews of the information activities of major agencies with the General Services Administration.
- — Review about 250 legislative proposals with regulatory or information policy implications.
- — Review about 3,000 regulations under Executive Order No. 12291, 80 of which are major rules and review their associated regulatory impact analyses.
- — Prepare the Administration's Regulatory Program for 1989 as required by Executive Order No. 12498.
- — Through Executive Order Nos. 12291 and 12498 review processes, take actions to ensure that agency regulatory policies are consistent with Executive Order No. 12612, "Federalism."
- — Together with the Regulatory Information Service Center, issue the Unified Agenda of Federal Regulations in October and April.
- — Publish the annual report to Congress on implementation of the Paperwork Reduction Act.
- — Evaluate 60 reports on new or altered systems of records for conformance with the provisions of the Privacy Act of 1974 and to determine the effect of those systems on the privacy and other personal property rights of individuals.
- — Prepare the Annual Report of the President on administration of the Privacy Act of 1974.
- — Develop and issue guidelines for the acquisition and use of Federal telecommunications resources to ensure that they are being acquired and managed efficiently and effectively.
- — Review plans for the 1990 Decennial Census of Population and Housing to ensure maximum automation of census functions within a coordinated systems environment.
- — Review evaluations of principal Federal economic indicators scheduled for submission to OMB in 1989.
- — Prepare annual report on Federal statistical programs and budgets.
- — Convene Federal Committee on Metropolitan Statistical Areas to review criteria for the redefinition of MSAs following the 1990 census; solicit public comment on the proposed criteria and publish final criteria prior to April 1, 1990.
- — Study the patterns of revision in principal economic indicators and the implications of publishing indicators more or less frequently.
- — Begin a review of the major classification systems for economic statistics, to determine whether any basic changes would be desirable in the 1990s.

MANAGEMENT ACTIVITIES

ASSOCIATE DIRECTOR/CHIEF FINANCIAL OFFICER

The Associate Director for Management/Chief Financial Officer provides governmentwide financial policy and guidance and direction for policy implementation and monitoring of executive agencies in the management of their financial activities, and reports to the President and the Congress on the financial condition and results of the government's financial management activities. Provides executive direction and coordination for the Financial Management Division, and the Government Operations Division.

GOVERNMENT OPERATIONS DIVISION

The Division plans and coordinates the development of management improvement initiatives to be included in the President's budget, a process which includes management review meetings with policy level agency staff, preparation of decision papers on management issues for the Director, and participation in the passback and appeals process. Assumes primary responsibility for supervising the formulation and administration of budgets for the General Services Administration (GSA) and the Office of Personnel Management (OPM), as well as the Federal Thrift Investment Board, the National Archives and Records Administration, the Federal Labor Relations Authority, the Merit System Protection Board, and the President's Advisory Committee on Federal Pay. The Division also provides staff support for the President's Council on Management Improvement (PCMI), the President's Council on Integrity and Efficiency (PCIE), and provides internal administrative support for the Associate Director for Management and the management divisions. The Division develops and coordinates external activities in intergovernmental affairs, oversight and maintenance of Executive Order 12372 (Intergovernmental Review Process), oversight of the Consolidated Federal Funds Report (CFFR), and the review of agency reporting systems. The Division assists the Director and Deputy Director in the presentation of the Federal Budget to state and local governments and interest groups.

MAJOR WORKLOAD IN 1988

— Planned and coordinated the management divisions' participation in the preparation of the President's Budget.

— Continued efforts related to intergovernmental relations and management division support to Congressional and public affairs.

— Provided staff support and oversight for preparation of Budget Information for States.

— Provided administrative and training support to the management divisions.

— Researched and procured computer hardware and software for management divisions.

— Assisted in the implementation of the new Federal retirement program (FERS), including issues connected with the Thrift Investment Board.

— Reviewed the implementation of management reform activities that affect the personnel and general services activities across government.

— Reviewed pending prospectuses for construction of new Federal buildings, major repair and alteration proposals, and new leases for office space.

— Analyzed and helped implement statutory and administrative changes in personnel policy areas such as employee leave transfer, lump-sum retirement credit changes, new payments to be made by the Postal Service to OPM for retirement and health programs, and on long-term health care.

— Analyzed the cost of the government's drug-free workplace program in all agencies.

EXPECTED EMPHASIS FOR 1989

— Coordinate and extend the management divisions' participation in the preparation of the President's Budget.

— Continue efforts related to intergovernmental relations and management divisions' support to Congressional and public affairs.

— Evaluate and improve the Federal Assistance Award Data System and the Consolidated Federal Funds Report.

— Continue to coordinate Federal agencies' participation in Executive Order 12372, Intergovernmental Review of Federal Programs.

— Continue support for the President's Council on Management Improvement (Assistant Secretaries for Management), and the President's Council on Integrity and Efficiency.

— Continue to provide administrative and computer training support for management divisions.

— Continue to evaluate the operation of the new FERS retirement program in light of relatively low level of employee switches to the new system.

— Analyze the pay of senior government officials, including the executive pay recommendations of the 1988 Quadrennial Pay Commission and proposals from the Commission on Federal Senior Managers Pay.

- Monitor and assist GSA in implementing reforms in Federal information technology and procurement policies.
- Seek greater efficiencies in general government functions and processes in such areas as the implementation of industrial funding for the Federal Supply Service.
- Continue monitoring costs of the drug-free workplace program.
- Intensify division efforts to develop models that will improve evaluation of pay and retirement costs and facilitate private sector comparisons.
- Continue reviews of prospectuses of reconstruction of new Federal buildings, major repair and alteration proposals, and new leases for office space.
- Analyze the effectiveness of the Federal Health Benefit program, such as assessing whether the large number of carriers in the program is creating administrative problems.

FINANCIAL MANAGEMENT AND PRODUCTION IMPROVEMENT DIVISION

The Financial Management Division supports the Chief Financial Officer, developing and implementing to improve financial management practices in the Executive Branch. The Division develops financial management, accounting, and grants management policies; monitors agency financial and grants management practices; and improves audit and audit follow-up systems. It carries out finance related Reform '88 projects, such as credit management, debt collection, cash management, and internal control, and improves the link between the budget, accounting, and other financial systems. The Division participates in the Joint Financial Management Improvement Program. It develops strategies for the President's Productivity Improvement Program and monitors agency progress in achieving productivity, quality and timeliness improvements.

MAJOR WORKLOAD ACTIVITIES IN 1988

- Implementing the Prompt Payment Act of 1982, developing OMB regulations and monitoring agency practices to insure compliance.
- Implementing the Federal Managers' Financial Integrity Act of 1982 by developing guidelines for internal controls against fraud and abuse and for effective, efficient accounting systems.
- Reviewing and upgrading cash management throughout the Federal Government.
- Updating and improving agency fund controls to prevent over obligation and overspending of Federal funds.
- Implementing audit policy and assuring management follow-up of audit findings.
- Establishing and monitoring government-wide administrative practices and cost reimbursement principles for grants to State and local governments, universities, and nonprofit organizations.
- Assuring agency implementation of the Debt Collection Act of 1982 plans for improving debt collection. Reviewing, analyzing and following-up on quarterly financial reports from those agencies. Preparing an annual report required by Congress on the status of Federal debt collection activities.
- Providing the staff support for block grant implementation and coordinating policy on block grants.
- Supporting efforts of The Office of Information and Regulatory Affairs to achieve major reductions in the regulatory burden placed on State and local governments.
- Establish a quality center to train and educate Federal officials in means for improving the quality of Federal operations, particularly in the delivery of services to the public.
- Provide information through the Federal Productivity Resource Center on strategies for improving productivity and quality.

EXPECTED EMPHASIS FOR 1989

- Upgrading agency accounting and internal control systems and preparing reports to the President and Congress on agency internal control systems as required by the Federal Manager's Financial Integrity Act of 1982.
- Developing and monitoring implementation of overall financial management policy.
- Encouraging the development of common financial management systems that can serve the needs of all major agencies.

— Provide central leadership, coordination and planning of a government-wide productivity and quality improvement program covering 700 functions and 2 million employees.

— Preparing reports to Congress required by the Prompt Payment Act of 1982 and the Debt Collection Act of 1982. Continuing efforts to see that all bills are paid as close as possible, but not later than the due date. Achieving significant new savings through improved cash management and debt collection.

— Assuring full implementation of audit follow-up policy.

— Working with the JFMIP, the GAO, and the Treasury Department to streamline and modernize central payment and collection processing and accounting.

— Implementing the Debt Collection Act of 1982, by developing policy guidelines on managing Federal credit programs to supplement Circular A-70 "Policies and Guidelines for Federal Credit Programs".

— Developing policies, procedures and guidelines to implement P.L. 98-502 "Single Audit Act of 1984".

— Streamlining government-wide fiscal and administrative requirements for grants and cooperative agreements to State and local governments, universities and other non-profit organizations.

VI. Agency and Program Responsibilities

AGENCY AND PROGRAM RESPONSIBILITIES ASSIGNED TO:

NATIONAL SECURITY DIVISION

Air Force, Department of the
 (see Defense Department)

American Battle Monuments Commission

Army, Department of the
 (see Defense Department)

Barry Goldwater Scholarship and Excellence in Education Foundation

Central Intelligence Agency

Defense, Department of:
- Military Functions:
  - Personnel, Civilian
  - Personnel, Military
  - Personnel, Reserve
  - Personnel, Retired
  - Operations, Ground Forces
  - Operations, Tactical Air
  - Operations, Naval Forces
  - Operations, Air Force
  - Procurement, Ground Forces
  - Procurement, Tactical Air
  - Procurement, Naval Forces
  - Procurement, Air Force Missile
  - Research and Development
  - Military Construction
  - Family Housing

Defense Advanced Research Projects Agency

Defense Communications Agency

Defense Contract Audit Agency

Defense Intelligence Agency

Defense Investigative Service

Defense Logistics Agency

Defense Mapping Agency

Defense Nuclear Agency
- Civil Functions:
  - Cemeterial expenses
  - Forest and Wildlife Forest and Conservation
  - US Soldiers & Airmen's Home

Intelligence Community Staff

National Security Agency

National Security Council

Navy, Department of the (see Defense Department)

Selective Service System

INTERNATIONAL AFFAIRS DIVISION

African Development Foundation

Agency for International Development

Arms Control and Disarmament Agency, US

Board for International Broadcasting

Defense Security Assistance Agency

Export-Import Bank of the United States

Food Aid Program

InterAmerican Foundation

International Boundary and Water Commission
 (State)

International economic policy analysis

Interagency mechanisms that consider international economic and other policies

International Security Assistance Programs

International Trade Commission

Japan-US Friendship Commission

Military Sales Programs

Multilateral Development Banks

Overseas Private Investment Corporation

Peace Corps

Special Assistance to Central America

State, Department of

Trade and Development Program

United States Information Agency

United States Institute of Peace

United States Trade Representative, Office of

HEALTH AND INCOME MAINTENANCE IVISION

Adoption Assistance

Aging, Administration on

Aid to Families with Dependent Children

Alcohol, Drug Abuse, and Mental Health Administration

- National Institute of Mental Health
- National Institute on Alcohol Abuse and Alcoholism
- National Institute on Drug Abuse
- Saint Elizabeths Hospital

Administration on Developmental Disabilities

Administration for Native Americans

Black Lung Program (HHS)

Black Lung Clinics

Bureau of Health Care Delivery and Assistance

Bureau of Health Professions

Bureau of and Resources Development

Centers for Disease Control

- Center for Environmental Health and Injury Control
- Center for Health Promotion and Education
- Center for Infectious Diseases
- Center for Prevention Services

National Center for Health Statistics

National Institute for Occupational Safety and Health

Office on Smoking and Health

Child Abuse

Child Care Feeding Program

Childhood Immunizations

Child Nutrition

Child Support Enforcement

Child Welfare Services

Children, Youth, and Families, Administration for (HHS)

Children's Bureau (HHS)

Commodity Supplemental Feeding Program

nsumer Affairs, Office of

onsumer Product Safety Commission

Community Services Block Grant

Cuban/Haitian Entrants Assistance

Disability Insurance

Elderly Feeding

Emergency Assistance

Family Support Administration (HHS)

Family Support Administration - Program Administration

Federal Windfall Subsidies

Food and Drug Administration (HHS)

Center for Food Safety and Applied Nutrition

- Center for Drugs and Biologies
- Center for Devices and Radiological Health
- Center for Veterinary Medicine
- Center for Toxicological Research

Federal Council on Aging

Food and Nutrition Service (USDA)

Food Distribution on Indian Reservations

Food Donations

Food Program Administration

Food Stamps

Foster Care

Head Start

Health Block Grants

Health Resources and Services Administration (HHS)

Health and Human Services, Department of (General)

- Office of the Secretary
- Office for Civil Rights
- Office of the Inspector General

Health, Office of the Assistant Secretary for (HHS)

- Office of Disease Prevention and Health Promotion
- Office of Minority Health
- Office of the Surgeon General
- Adolescent Pregnancy
- Family Planning
- National Center for Health Services Research and Health Care Technology Assessment

- Health Care Financing Administration (HHS)
  - Medicaid/Medicare Program Management
  - Health Financing Research
  - Survey and Certification
  - Hospital Insurance
- Indian Health Service
- Interim Assistance to States for Legalization
- Legal Services Corporation
- Low Income Home Energy Assistance
- Medicaid
- Medicare
- Medicare Contractors
- Migrant Health Centers
- National Center on Child Abuse and Neglect
- National Institute for Occupational Safety and Health (under CDC)
- National Institutes of Health
  - National Cancer Institute
  - National Heart, Lung and Blood Institute
  - National Institute of Dental Research
  - National Institute of Arthritis, Musculoskeletal and Skin Diseases
  - National Institute of Neurological and Communicative Disorders and Stroke
  - National Institute of Allergy and Infectious Diseases
  - National Institute of General Medical Sciences
  - National Institute of Child Health and Human Development
  - National Eye Institute
  - National Institute of Environmental Health Sciences
  - National Institute on Aging
  - National Institute of Diabetes, Digestive and Kidney Diseases
  - Research Resources
  - National Center for Nursing Research
  - Fogarty International Center
  - National Library of Medicine
- Nutrition Assistance for Puerto Rico
- Office of Prepaid Health Care (HHS)
  - fice of Refugee Resettlement
- Office of Human Development Services (HHS)
- Old Age and Survivors Insurance
- Peer Review Organization
- Planning and Evaluation, Assistant Secretary
- President's Council on Physical Fitness and Sports
- Public Health Service
- Public Health Service Commissioned Corps
- Railroad Retirement Board
- Railroad Sickness Insurance
- Railroad Unemployment Insurance
- Railroad Social Security Equivalent Benefits
- Railroad Industry Pension
- Railroad Supplemental Annuity Pensions
- Refugee Assistance Program
- Repatriation of U.S. Citizens
- Runaway and Homeless Youth
- School Breakfast
- School Lunch
- Section 32
- Sexually Transmitted Diseases
- Social Security Administration (HHS)
- Social Services Block Grant
- Special Milk Program
- Special Supplemental Food Program for Women, Infants and Children (WIC)
- Summer Feeding Program
- Supplemental Security Income
- Supplementary Medical Insurance

LABOR, VETERANS, AND EDUCATION DIVISION

- ACTION
- Advisory Commission on Intergovernmental Relations
- Architectural and Transportation Barriers Compliance Board
- College Construction Loan Insurance Association
- Commission on Civil Rights
- Commission on the Deaf

Committee for Purchase from the Blind and Other Severely Handicapped

Department of Education

Department of Labor

Equal Employment Opportunity Commission

Federal Election Commission

Federal Mediation and Conciliation Service

Federal Mine Safety and Health Review Commission

Harry S. Truman Scholarship Foundation

Institute of Museum Services

James Madison Memorial Fellowship Foundation

National Afro-American History and Culture Commission

National Commission on Libraries and Information Science

National Council on the Handicapped

National Endowment for the Arts

National Endowment for the Humanities

National Labor Relations Board

National Mediation Board

Occupational Safety and Health Review Commission

Student Loan Marketing Association

Veterans Administration

TRANSPORTATION, COMMERCE, AND JUSTICE DIVISION

Administrative Conference of the United States

AMTRAK

Appalachian Regional Commission

Attorneys, U.S. (Justice)

Bicentennial of the Constitution Commission

Census, Bureau of (Commerce)

Christopher Columbus Quincentenary Jubilee Commission

Coast Guard (Transportation)

Commerce, Department of

Commerical Space Transportration, Office of

Community Relations Service (Justice)

Corporation for Public Broadcasting

Drug Enforcement Administration (Justice)

Economic Analysis, Bureau of (Commerce)

Economic Development Administration (Commerce)

Federal Aviation Administration (Transportation)

Federal Bureau of Investigations (Justice)

Federal Bureau of Prisons (Justice)

Federal Communications Commission

Federal Highway Administration (Transportation)

Federal Maritime Commission

Federal Prisons Industries, Inc. (Justice)

Federal Railroad Administration (Transportation)

Federal Trade Commission

Foreign Claims Settlement Commission (Justice)

Immigration and Naturalization Service (Justice)

Industrial Economics, Bureau of (Commerce)

Inspectors General (Commerce and Transportation)

International Trade Administration (Commerce)

Interstate Commerce Commission

Justice, Department of

Legal Divisions (Justice)

Marine Mammal Commission

Maritime Administration (Transportation)

Marshals Service, U.S. (Justice)

Minority Business Development Agency (Commerce)

National Bureau of Standards (Commerce)

National Highway Traffic Safety Administration (Transportation)

National Institute for Building Sciences

National Oceanic and Atmospheric Administration (Commerce)

National Technical Information Service (Commerce)

National Telecommunications and Information Administration (Commerce)

National Transportation Safety Board

Office of Justice Programs (Justice)

Offices of the Secretary (Commerce, DOT)

Panama Canal Commission

Pardon Attorney (Justice)

Parole Commission, U.S. (Justice)

Patent and Trademark Office (Commerce)

Research Special Programs Administration (DOT)

Saint Lawrence Seaway Development Corporation (Transportation)

State Justice Institute

Transportation, Department of

U.S. Travel and Tourism Administration (Commerce)

Urban Mass Transportation Administration (Transportation)

Washington Metropolitan Area Transit Authority

TREASURY, HOUSING, AND PERSONNEL

Community Planning and Development (HUD)

Fair Housing and Equal Opportunity, Office of (HUD)

Federal Deposit Insurance Corporation

Federal Home Loan Bank Board

Federal Home Loan Banks

Federal Home Loan Mortgage Corporation

Federal Housing Administration (HUD)

Federal National Mortgage Association

Federal Savings and Loan Insurance Corporation

Government National Mortgage Association (HUD)

Housing and Urban Development, Department of

Inspectors General HUD, and Treasury

teragency Council on the Homeless

Interstate Land Sales, Office of (HUD)

National Credit Union Administration

Neighborhood Reinvestment Corporation

Policy Development and Research (HUD)

Public and Indian Housing (HUD)

Alcohol, Tobacco and Firearms, Bureau of (Treasury)

Commodity Futures Trading Commission

Compensation of the President (EOP)

Comptroller of the Currency, Office of the (Treasury)

Council of Economic Advisers (EOP)

Customs Service, US (Treasury)

District of Columbia Government

Engraving and Printing, Bureau of (Treasury)

Exchange Stabilization Fund (Treasury)

Executive Residence (EOP)

Federal Emergency Management Agency

Federal Financing Bank (Treasury)

Federal Reserve Board

Financial Management Service (Treasury)

Internal Revenue Service (Treasury)

Law Enforcement Training Center, Consolidated Federal (Treasury)

United States Mint (Treasury)

Office of Administration (EOP)

Office of Federal Procurement Policy (EOP)

Office of Management and Budget (EOP)

Office of Policy Development (EOP)

Official Residence of the Vice President (EOP)

Postal Service, United States

Public Debt, Bureau of (Treasury)

Secret Service, U.S. (Treasury)

Securities and Exchange Commission

Special Assistance to the President (EOP)

Small Business Administration

Treasury, Department of

White House Office (EOP)

NATURAL RESOURCES DIVISION

dvisory Council on Historic Preservation

Agricultural Cooperative Service (Agriculture)

Agricultural Marketing Service (Agriculture)

Agricultural Research Service (Agriculture)

Agricultural Stabilization and Conservation Service (Agriculture)

Agriculture, Department of (General)

Animal and Plant Health Inspection Service (Agriculture)

Commission of Fine Arts

Commodity Credit Corporation (Agriculture)

Cooperative State Research Service (Agriculture)

Council on Environmental Quality

Delaware River Basin Commission

Economic Research Service (Agriculture)

Engineers, Army Corps of (Civil)

nvironmental Protection Agency

Extension Service (Agriculture)

Farm Credit Administration

Federal Crop Insurance Corporation (Agriculture)

Federal Grain Inspection Service (Agriculture)

Fish and Wildlife Service (Interior)

Food Safety and Inspection Service (Agriculture)

Foreign Agricultural Service (Agriculture)

Franklin D. Roosevelt Memorial Commission

General Sales Manager (Agriculture)

Geological Survey (Interior)

United States Holocaust Memorial Council

Human Nutrition Information Service

Indian Affairs, Bureau of (Interior)

Interior, Department of the

Interstate Commission on the Potomac River Basin

John F. Kennedy Center for the Performing Arts (Interior)

Land Management, Bureau of (Interior)

Minerals Management Service (Interior)

Mines, Bureau of (Interior)

National Agricultural Library (Agriculture)

National Agricultural Statistics Service (Agriculture)

National Capital Planning Commission

National Council on Public Works Improvement

National Park Service (Interior)

Navajo & Hopi Relocation Commission

Office of International Cooperation and Development (Agriculture)

Office of Rural Development Policy (Agriculture)

Office of the Secretary (Interior)

Office of Transportation (Agriculture)

Office of Water Policy (Interior)

Packers and Stockyards Administration (Agriculture)

Pennsylvania Avenue Development Corporation

Reclamation, Bureau of (Interior)

Rural Electrification Administration (Agriculture)

Rural Telephone Bank (Agriculture)

Soil Conservation Service (Agriculture)

Statistical Reporting Service (Agriculture)

Surface Mining, Reclamation and Enforcement, Office of (Interior)

Susquehanna River Basin Commission

Territorial and International Affairs (Interior)

Water Resources Council

World Food and Agricultural Outlook and Situation Board (Agriculture)

ENERGY AND SCIENCE DIVISION

Aeronautics and Space Technology, Office of (NASA)

Civilian Radioactive Waste Management, Office of (Energy)

- Conservation and Renewable Energy, Office of (Energy)
- Defense Programs, Office of (Energy)
- Economic Regulatory Administration (Energy)
- Energy, Department of
- Energy Information Administration (Energy)
- Energy Research, Office of (Energy)
- Federal Energy Regulatory Commission (Energy)
- Fossil Energy, Office of (Energy)
- International Affairs and Energy Emergencies, Office of (Energy)
- National Aeronautics and Space Administration
- National Gallery of Art
- National Science Foundation
- Naval Petroleum Reserves (Energy)
- Nuclear Energy, Office of (Energy)
- Nuclear Regulatory Commission
- Power Marketing Administrations (Energy)
- Science and Technology Policy, Office of
- Smithsonian Institution (except JFK Center)
- Space Flight, Office of (NASA)
- Space Science and Applications, Office of (NASA)
- Space Station, Office of (NASA)
- Space Operations, Tracking and Data Systems, Office of (NASA)
- Strategic Petroleum Reserve (Energy)
- Tennessee Valley Authority
- Woodrow Wilson International Center for Scholars

BUDGET REVIEW DIVISION

- Legislative Branch
  - House of Representatives
  - Senate
  - Joint Items
  - Congressional Budget Office
  - Architect of the Capitol
  - Library of Congress
  - Government Printing Office
  - General Accounting Office
  - U.S. Tax Court
  - Other Legislative Branch Agencies
- Judiciary
  - Supreme Court of the United States
  - U.S. Court of Appeals for the Federal Circuit
  - U.S. Court of International Trade
  - Courts of Appeals, District Courts, and other Judicial Services
  - Administrative Office of the U.S. Courts
  - Federal Judicial Center
  - Bicentennial Expenses, the Judiciary

VII. Legal Authorities

LEGAL AUTHORITIES

The principal legal authorities of the Office of Management and Budget are defined in the following:

Chapter 5, Title 31, United States Code, which established the Office of Management and Budget (OMB) and placed the Office of Information and Regulatory Affairs in OMB.

Chapter 11, Title 31, United States Code, which provides for the preparation and submission of the Budget of the United States, including amendments and supplementals thereto, for the apportionment of appropriations, for the provision of information pertaining to the Budget, and improvements in governmental budgeting and accounting methods and procedures.

The Impoundment Control Act of 1974 (2 U.S.C. 681 et. seq.), which provides for the deferral or proposed rescission of budget authority.

Debt Collection Act of 1982, (P.L. 97–365), which applies private sector techniques to the collection of outstanding debts owed the Federal government and authorizes OMB to determine those federal loan programs for which tax delinquency status may be disclosed by the Secretary of the Treasury and to establish regulations requiring each agency with outstanding debts to prepare and transmit to the Director and the Treasury reports on the status of loans and accounts receivable managed by the agency.

Act of October 30, 1965 (40 U.S.C. 759), which deals with automatic data processing equipment, and under which the Office provides guidelines and information for the management of automatic data processing activities in the Federal Government.

Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334), which requires the Office to prescribe rules and regulations for the coordination of Federal aid in metropolitan areas.

Intergovernmental Cooperation Act of 1968 (42 U.S.C. 42014244), and the President's memorandum of November 8, 1968, delegating certain authority under that Act (33 F.R. 16487), which require issuance of rules and regulations with regard to: (1) improved administration of grants–in–aid to the States; (2) special or technical services to State and local units of government; and (3) the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development.

Office of Federal Procurement Policy Act (P.L. 93–400, as amended by P.L. 96–83 and P.L. 98–191) established, in the Office of Management and Budget, the Office of Federal Procurement Policy.

Privacy Act of 1974 (P.L. 93–579) requires the Office to provide for oversight and to issue guidelines for implementation of the Act.

The Balanced Budget and Emergency Deficit Control Act of 1987 (P.L. 99–177) as amended by *The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987* (P.L. 100–119) requires OMB to issue yearly deficit estimates, to coordinate certain budget materials with estimates and to issue reports to the President on the nature and amounts of budgetery reductions that may be necessary to met the deficit reduction targets set forth in the Act.

44 U.S.C. 1108, which requires approval of the use of appropriated funds for the printing of periodicals.

44 U.S.C. 3501–3511 (the Federal Reports Act), which requires coordination of Federal reporting and statistical services in order to eliminate duplication, reduce the cost of such services, and minimize the burden on the public of furnishing information to Federal agencies.

Paperwork Reduction Act of 1980 (P.L. 96–511), as amended by Public Laws 99-500 and 99-591, strengthens the role of OMB in reducing the paperwork burden imposed on the public by the Federal government, and sets a paperwork reduction goal of 15 percent by October 1, 1982, and an additional 10 percent a year later. The act established a new unit (the Office of Information and Regulatory Affairs) in the Office of Management and Budget.

EXECUTIVE ORDERS

Executive Order No. 8248 of September 8, 1939 (4 F.R. 3864), which specifies the functions of the Office as part of the Executive Office of the President.

Executive Order No. 9094 of March 10, 1942 (7 F.R. 1972), which provides for coordination and planning of Federal mapping and chartmaking activities.

Executive Order No. 10579 of November 30, 1954 (19 F.R. 7925), which provides for final decision on appeal by an agency from any determination by the Administrator of General Services with respect to the establishment of an interagency motor vehicle pool or system.

Executive Order No. 10654 of January 20, 1956 (16 U.S.C. 1005) which delegates certain functions under the Watershed Protection and Flood Prevention Act.

Executive Order No. 10900 of January 5, 1961 (26 F.R. 143), as amended, which provides for fixing amounts of certain foreign currencies to be used for various purposes and waiving certain statutory requirements.

Executive Order No. 11030 of June 19, 1962 (27 F.R. 5847), as amended, which provides for clearance for the President of Executive Orders and proclamations.

Executive Order No. 11060 of November 7, 1962 (27 F.R. 10925), which provides for determining and establishing rates of hospital care and treatment furnished by the United States, for use in connection with recovery from tortuously liable third persons.

Executive Order No. 11541 of July 1, 1970 (35 F.R. 10737), as amended, which delegated to the Director of the Office of Management and Budget the functions of the Bureau of the Budget which were transferred to the President by Reorganization Plan No. 2 of 1970.

Executive Order No. 11592 of May 6, 1971 (36 F.R. 8555), which delegates to the Director of the Office of Management and Budget the function of granting certain approvals under provisions of the Rivers and Harbors Act of 1970 and the Flood Control Act of 1970.

Executive Order No. 11609 of July 22, 1971 (36 F.R. 13747), as amended, which delegates to the Director of the Office of Management and Budget the exercise of statutory authorities of the President involving (1) regulatory functions with respect to quarters and facilities, (2) transfers of balances of appropriations, (3) land acquisitions, contracts for land acquisitions, and other land transactions, (4) approval of regulations relating to rental of substandard housing for members of the uniformed services, (5) approval of use of funds for printing of periodicals, and (6) allocation of funds for management improvement.

Executive Order No. 11672 of June 6, 1972 (37 F.R. 11455), which requires approval by the Director of property transferred from the Postal Service to other agencies.

Executive Order No. 11721 of May 23, 1973 (38 F.R. 13717) as amended, which designates the Director of the Office of Management and Budget, the Secretary of Labor and the Director of the Office of Personnel Management, as the President's agents under 5 U.S.C. 5305, relating to Federal pay administration.

Executive Order No. 11747 of November 23, 1973 (38 F.R. 30993), which delegates certain functions under the Water Resources Planning Act to the Director, Office of Management and Budget.

Executive Order No. 11758 of January 15, 1974 (38 F.R. 1075) as amended, delegating to the Director certain functions under the Rehabilitation Act of 1973.

Executive Order No. 11845 of March 24, 1975 (40 F.R. 13299) which delegates to the Director certain functions under the Impoundment Control Act of 1974.

Executive Order No. 11874 of July 25, 1975 (40 F.R. 31737) delegating certain functions to the Director regarding support assistance to the Legal Services Corporation.

Executive Order No. 11893 of December 31, 1975 (41 F.R. 1040) transferring certain management functions from GSA to the Director.

Executive Order No. 11961 of January 19, 1977 (42 F.R. 4321) provides for OMB to exercise oversight over certain international investment surveys.

Executive Order No. 12039 of February 24, 1978 (43 F.R. 8095) delegates certain science and technology functions to the Director, including those related to facilitating the transfer and utilization of research and development results, and those related to reorganization functions.

Executive Order No. 12036 of March 27, 1978 (43 F.R. 13349) delegates to the Director the responsibility for telecommunications procurement and for deciding Government appeals from radio frequency assignments by the Secretary of Commerce.

Executive Order No. 12088 of October 13, 1978 (43 F.R. 47707) assigns oversight responsibility to the Director for agency pollution control plans.

Executive Order No. 12152 of August 14, 1979 (44 F.R. 48143) which requires establishing regulation and oversight of systematic review by agencies of their operation.

Executive Order No. 12185 of December 17, 1979 (45 F.R. 75093) which delegates to the Director certain authorities and responsibilities vested in the President by the Power Plant and Industrial Fuel Use Act of 1978.

***Executive Order No. 12196 of February 26, 1980* (45 F.R. 12769), as amended by Executive Order 12223, provides that the Director of the Office of Management and Budget is responsible for approving basic program elements to be issued by the Secretary of Labor in order to assist agencies in establishing occupational safety and health committees and operate effective occupational safety and health programs.**

***Executive Order No. 12291 of February 17, 1981* (46 F.R. 33) assigns to the Director the responsibility for management and oversight of the Governmentwide regulatory improvement program.**

***Executive Order No. 12352 of March 17, 1982* (47 F.R. 12125) delegates to the Director of the Office of Management and Budget, through the Office of Federal Procurement Policy, responsibility for providing policy guidance to achieve procurement reform.**

***Executive Order No. 12498 of January 8, 1985* (50 F.R.) delegates to the Director of the Office of Management and Budget responsibility for conducting the President's Annual Regulatory Planning Program.**

JUSTIFICATION ON FISCAL YEAR 1989 APPROPRIATIONS REQUEST FOR EXPENSES OF MANAGEMENT IMPROVEMENT

I. Appropriations Language

1989 Regular Appropriations

FUNDS APPROPRIATED TO THE PRESIDENT
EXPENSES OF MANAGEMENT IMPROVEMENT

For expenses necessary to improve the management of Executive agencies by providing a consolidated Federal budget and financial information system, under the direction of the Office of Management and Budget, and to provide a comprehensive office automation system, including equipment and software, for the Office of Management and Budget, $5,900.000, to remain available until expended.

II. General Statement

SUMMARY

The Expenses of Management Improvement requests a fiscal year 1989 appropriation of $5,900,000, to remain available until expended. This request represents resources needed for the implementation of management initiatives designed to enhance economy and efficiency throughout the Government.

The Expenses of Management Improvement is a no year fund which was created in 1954. The account is intended to assist the President in improving management of Executive agencies through the establishment of more efficient business methods. The Office of Management and Budget is authorized to make allocations from the account to examine solutions to management problems and to effect administrative improvements in the operations of the Executive Branch.

For 1989, the account is split into a two pronged initiative. An overhaul to the Federal budget system and creation of a comprehensive office word processing system.

FEDERAL BUDGET SYSTEM AND DATABASE UPGRADE

A key part of the effort to upgrade Federal financial systems is the program to improve the Federal budget system. The budget systems used by the Executive Branch to prepare the President's budget and track the budget process are 7 to 20 years old and present a number of problems associated with their age and design. On the whole, they lack the degree of flexibility characteristic of modern computing technologies and they do not readily support integration with the accounting and budget systems of the Treasury Department and other Federal agencies.

Current planning calls for the replacement of the multiple aging budget systems with a single modern system based on current information resource management policies and Federal information processing standards. Adherence to these standards and policies will provide a technical basis for smoothing the flow of budget data in support of the budget process, thereby eliminating some technical constraints on tuning the budget process. An additional result will be improved information access for agencies, the President, and Congress, and the ability to respond quickly to changes in policy makers information requirements.

The budget system upgrade will be carried out in four phases planned for completion by September of 1990. The first phase, to be completed by August of 1988, involves a review of the mechanical aspects of the budget process. The result will be a set of requirements, specifications, and a system design all stated in functional terms.

Phase two, selection of commercial software, will begin in March of 1988. In the next phase, key prototypes will be developed for evaluation and the basic computing environment will be expanded to include a universe of tools to facilitate access to and use of the system. Finally, current functions will be migrated to the new environment and the old systems will be phased out.

OFFICE AUTOMATION SYSTEM (WORD PROCESSING SYSTEM)

An important component of the Executive Office of the President is the Office of Management and Budget (OMB). OMB has been gradually improving and linking its automated office equipment for many years, beginning with its use of commercial time sharing word processing services in the 1970's. This time sharing facility was used to produce OMB bulletins and circulars. Once OMB management began to see the usefulness of word processing, a wide variety of stand-alone word processing equipment began to make its way into the organization in what was becoming a very confusing, disorganized approach to office automation.

By 1980, OMB had begun to settle on a centralized, mini-computer based approach to word processing which had the advantage of allowing the electronic exchange of compatible electronic documents. The old 1970's era mini-computers have limited capacity and have been saturated for many years now, so that only a portion of OMB's automated office equipment is actually linked through the mini-computer system. The situation at this time is that most of OMB's professional staff have access to stand-alone micro-computers, but it is very difficult for a professional to draft a document on a micro and then pass it to a support person for finalization and distribution. It is also technically difficult at this time for professional staff to electronically transmit information to one another or to their counterparts in other Federal agencies. Because it is difficult, it is not done very often.

In order to add capacity and modern features to the existing word processing system so that the entire organization can be linked in a single uniform office automation environment, and to generally improve information access, flow, and control, $2.4 million dollars are requested for fiscal year 1989 to install a new consolidated office automation system. This new system will consist of computer and data communications hardware, as well as office automation software to be configured and installed by a commercial vendor or vendors.

III. Summary Tables

Budget Overview

(in thousands of dollars)

	1987	1988	1989
Budget Authority	—	—	5,900
Obligations	—	—	4,200
Outlays	—	—	3,400

Expenses of Management Improvement
Salaries and Expenses

Program and Financing (in thousands of dollars)

	1987 Actual	1988 Est.	1989 Est.
Program by activities:			
Budget and financial information system	—	—	1,800
Office Automation	—	—	2,400
Total Obligations	—	—	4,200
Financing:			
Unobligated balance available, start of yr.	-228	-228	-228
Unobligated balance available, end of yr.	228	228	1,928
Budget Authority	—	—	5,900
Relation of obligations to outlays:			
Obligations incurred, net	—	—	4,200
Obligated balance, end of yr.	—	—	-800
Outlays	—	—	3,400

Object Classification (in thousands of dollars)

	1987 Actual	1988 Est.	1989 Est.
Travel and transportation of persons	—	—	20
Communications, utilities and miscellaneous charges			50
Other services	—	—	100
Supplies and materials	—	—	30
Equipment	—	—	4,000
Total Obligations	—	—	4,200

IV. Detailed Cost Justification by Object Classification

Financial Management Database Project

TRAVEL AND TRANSPORTATION OF PERSONS (OBJECT CLASSIFICATION 21), $20,000

The Government wide nature of the new system contributes to a need for test activities involving heterogeneous ADP equipment types at multiple locations. This request provides for travel associated with such activities.

COMMUNICATION, UTILITIES, AND MISCELLANEOUS CHARGES (OBJECT CLASSIFICATION 23.3) $50,000

This estimate includes the cost for ADP equipment rentals and data communications.

OTHER SERVICES (OBJECT CLASSIFICATION 25), $100,000

This request will provide for training, maintenance and miscellaneous services during implementation of the system.

SUPPLIES AND MATERIALS (OBJECT CLASSIFICATION 26), $30,000

This request is for the purchase of miscellaneous ADP supplies as the system is installed.

EQUIPMENT (OBJECT CLASSIFICATION 31), $1,600,000

These funds will be used for the replacement of the Federal budget systems with a single modern system. The new system will include a combination of ADP equipment, and off-the-shelf and custom software having a useful life of more than two years which will form the computer environment for the new financial management database system.

OMB Office Automation System

EQUIPMENT (OBJECT CLASSIFICATION 31), $2,400,000

This request is for a combination of ADP equipment and software to make up an integrated office automation system in the Office of Management and Budget.

Federal Budget System and Database Upgrade

Background

The Office of Management and Budget currently uses a number of computer based systems for the preparation of the President's Budget and other activities associated with the budget process. Most of these are essentially internal OMB systems with some very limited degree of integration with systems in other agencies.

OMB bulletin No. 79-10, dated July 12, 1979, listed requirements for agency data processing capabilities to support the annual budget process. It listed three systems in OMB which were used to process budget data. The current mix of systems is similar to that described in 1979 except that there are now more of them and zero base budgeting (ZBB) is no longer a requirement.

The Budget Preparation System (BPS) was named in the 1979 bulletin as the major system into which agencies would enter budget data according to instructions and guidance provided in OMB Circular No. A-11. At the time the BPS was already a mature system which had evolved continuously since 1967 based on 1950's punch card technology. Over the years it has been patched to work with newer computer technologies and to accommodate mandated changes in the budget process, such as the 1976 Federal fiscal year transition. The result is a series of COBOL language programs consisting of something over a million lines of code. Functionally, it remains almost exactly as described in Bulletin 79-10.

The Budget Status System (BSS) is another OMB computer based system described in Bulletin 79-10. With the demise of zero base budgeting in the early 1980's, it has declined in importance within OMB. It remains in use today because some useful functions have not been provided in other systems, but it is not fully supported and will be phased out entirely when its more useful functions are replicated in an integrated system.

One major OMB budget information system not mentioned in Bulletin 79-10 is the Central Budget Management System (CBMS). CBMS is essentially a custom coded system consisting of several hundred thousand lines of COBOL code. It is primarily an analytical system originally developed in a great hurry in 1982 to address some of the shortcomings of the other systems. Since then it has proven its value to OMB on many other occasions. However, practical compromises made in its basic design have left it with structural and performance limitations so severe that it is clearly not a strategic information system to build upon for the future.

Since 1983, IBM type personal computer (PC) equipment has come into widespread use within OMB and throughout the Federal Government. Spreadsheet type software used on these machines provide a very powerful analytical tool for budget staff at OMB and in the agencies. However, the PC based spreadsheet applications are not well integrated with other OMB computer based systems, contributing further confusion to a "tower of Babel" situation.

At this time, OMB spends approximately one million dollars each year for maintenance of the BPS, CBMS, and OMB micro-computers. The bulk of this amount, about eight hundred thousand dollars, goes for maintenance of the COBOL programs which make up the BPS and CBMS. Operating costs and costs associated with adding functionality to the systems are in addition to these amounts.

PROBLEMS WITH THE CURRENT SYSTEMS

The Federal budget systems used by the executive branch to prepare the President's budget and track the budget process are 7 to 20 years old and present a number of problems associated with their age and design. On the whole, they lack the degree of flexibility characteristic of modern computing technologies and they do not readily support integration with the accounting and budget systems of the Treasury Department, other individual Federal agencies, or personal computers. For example, some shortcomings continuously encountered with the existing systems include:

A. Difficulties in adapting quickly to new requirements associated with deficit reduction initiatives;

B. A steep learning curve for new users in agency budget offices and OMB program offices;

C. A lack of general purpose analytical tools for agency and OMB staff;

D. An inability to produce or share information readily;

E. A very low level of integration with other OMB systems and with agency systems.

In addition to the shortcomings mentioned above, the current budget systems do not lend themselves well to supporting revisions to Federal budget presentation. Also, they do not conform to current Federal Information Resource Management (IRM) policies, thereby making integration with other Federal systems difficult or impossible. For these reasons, and others, they contribute somewhat to the difficulty of managing the Federal budget process.

In spite of relatively recent changes to the budget process associated with new management initiatives and deficit reduction requirements, no major OMB budget system has had a significant functional upgrade within the past six years. These systems even lack such routine standard features as a general on-line query capability.

With the advent of deficit reduction initiatives, some of the weaknesses of the current systems have been clearly revealed. There is an increasing need to share information readily between organizations like OMB and the Congressional Budget Office (CBO). This is not easily accomplished, currently, because of incompatibilities between OMB and CBO systems. This is an issue of increasing concern to OMB managers who have a real and urgent need to exchange information with other organizations in order to meet new budget process requirements.

OMB currently needs about six hours to translate and load a CBO version of the Federal budget. This is six hours that could be better used by OMB budget examiners in talking with their counterparts in agencies and at CBO. Standards for data exchange and standard data management facilities have the potential to reduce that time significantly and also increase the accuracy of transferred data. This is vitally important when politically sensitive negotiations are taking place which require analytical support and a high level of technical agreement between OMB and another organization such as CBO.

Another weakness in current OMB systems which make it difficult to handle deficit reduction requirements is the lack of a link between various types of budgetary resources and the outlays associated with those resources. This shortcoming makes it very difficult to provide automated analytical support. To add this feature to existing systems turns out to be very difficult and expensive.

PROPOSED SOLUTION

Current planning calls for the replacement of the multiple aging budget systems with a single modern system based on current IRM policies and Federal information processing standards. Adherence to these standards and policies will provide a technical basis for smoothing the flow of budget data in support of the budget process, thereby eliminating data flow bottlenecks and removing technical constraints on tuning the budget process. An additional result will be improved information access for agencies, the President, and Congress, and the ability to respond to changes in policy makers information requirements.

In accordance with OMB Circular A-130 and various reports of the Joint Financial Management Improvement Program (JFMIP), the Federal budget system upgrade will use so called "off-the-shelf" commercial software as much as possible. Although some testing and evaluation remains to be done, it appears that relational database technology together with a standard data management language such as structured query language offers an attractive long term strategic technology base upon which to build for the future.

Early indications are that the two million or so lines of mostly COBOL code which OMB currently pays to maintain in several existing systems may be reduced to five hundred thousand lines or less by integrating current functions into a single new system environment and by using more commercial software and less custom software. That is a projected decrease of about 75% in the number of lines of custom code, in spite of the fact that current plans call for the new system to have more functional capability than the universe of current incompatible systems combined.

In part, it is expected that some of the reduced need for custom code will result from a careful integration of personal computers into the new system environment. This strategy seems attractive because of the investment which the Government has already made in PC equipment and training. Some of the limited functions currently provided by custom COBOL programs on the mainframe computer could be provided by full featured government owned commercial software programs on PCs. Federal and industry standards for data management languages and data communications offer a real potential for PC to mainframe integration, but OMB's old mainframe budget information systems are non-standard, making integration difficult and expensive.

The budget system upgrade will be carried out in four phases to be completed by September of 1990 at a development cost of 3.5 million dollars. The first phase, currently underway, involves a review of the mechanical aspects of the budget process. The result will be a set of requirements, specifications, and a system design all stated in functional terms. This will be completed by August of 1988.

Phase two, which involves the selection of a commercial database engine to manage data and drive new applications, will begin in March of 1988. All current Federal information processing standards and policy statements will be considered in making the selection, as will other characteristics such as performance, flexibility, and capacity.

The next phase involves expanding the computing environment to include commercial add-on software. This is the software that the system users will actually deal with. It will provide generic capabilities to query the database and to produce reports and other information to support analysis and management of the budget process. Key application prototypes will be developed and evaluated by the future users of the system, including Federal agencies.

In the last phase, the current systems functions will be migrated to the new environment and new functions not currently provided will be added. Once this has been accomplished, OMB will work with other agencies in order to develop a higher level of integration with their new or existing systems. Information about data exchange standards will be distributed and agencies will be encouraged to consider these standards for their anticipated systems upgrades.

OMB will work with CBO, the Department of of the Treasury, and other organizations in order to merge information from these sources into a form that is useful and understandable to policy officials. The Treasury Department has already begun a system upgrade using the same relational database technology OMB is currently considering. The new Federal real property management system, referred to as the FIRM system, also makes use of that same basic technology. Systems such as these are highly visible to Federal agencies and serve as models when the time comes for them to modernize their old systems.

OMB Consolidated Office Automation System

Background

OMB has always demanded high quality word processing on a quick response basis. Historically, it depended on a work force of highly skilled, dedicated clerical staff supplemented by the latest typewriters. By the mid-1970's, OMB had acquired an assortment of memory typewriters supplemented by a commercial time-shared word processing service used to produce bulletins and circulars.

In the late 1970's, OMB divisions began to acquire a wide variety of incompatible stand-alone word processors from numerous vendors. Lanier machines quickly became the most popular, and the demand for them soon placed a substantial financial strain on OMB funds. In an effort to find a more cost effective solution to the escalating demand for word processing equipment, an effort was begun for an OMB-wide solution in 1979. In 1980, a pilot test began for a central processor driven word processing system using a DEC PDP-11/70 computer and VT100 "dumb" terminals. This system allowed a number of terminals and printers to be attached to a single mini-computer so that they could share the memory and programs of the central processor, but equally important, allowing documents to be electronically transferred from office to office.

Within two years, this systems has grown to include 4 mini-computers and over 100 terminals and printers. At this point, the system stabilized at essentially maximum capacity and has remained unchanged in terms of capacity and function. In 1986, the PDP-11/70's were swapped for newer PDP-11/84's at very little cost for a variety of technical reasons. While there was no increase in system capacity or function, the reliability of the system has improved dramatically since the upgrade.

Not all divisions of OMB are serviced by the DEC system. The National Security Division and the International Affairs Division have been forced to other solutions for security reasons. These divisions use stand-alone DECmate word processors which permit them to communicate with the mini-computer system when appropriate to transfer documents. The management divisions of OMB have generally been forced to rely on stand-alone word processors.

OMB professionals generally rely on word processing software packages from IBM type personal computers (PCs). There is no good way to pass documents between the PCs and the DEC equipment, although some creative professionals and clericals have devised low level methods of achieving such transfers on an as needed basis. PCs have filled an important need in OMB for word processing and numerical analysis, as well as serving as terminals for interactive processing of budget numbers. The PCs are generally configured as stand-alone units or have some communications capability with the IBM mainframe computer system. The PCs are not, however, generally linked so that information can be passed between them.

PROBLEMS WITH THE CURRENT SYSTEMS

The current OMB word processing mini-computer based system is based on obsolete, dead end equipment. This system is at maximum capacity and cannot grow further. The communications network that ties the mini's to the terminals and printers represents only a very limited capability to exchange information. While it was better than nothing in 1980, in the current age of local area networks it has become a relic.

The network technology used to connect the DEC terminals with the mini-computers cannot support a meaningful level of communications between OMB's 350 or so stand-alone PCs. The technical base for integrating OMB's PCs, mini-computers, and mainframe computers is just not there. It would not be a wise use of Government funds to attempt to extend the current technology envelope represented by the mini-computer based word processor system.

In addition to the architecture and capacity limitations of the current system, there are also matters of security and flexibility to be considered. The data communications technology used with the DEC mini-computers does not support an adequate level of flexibility or security to enable it to perform adequately as an information management environment for the Executive Office of the President of the United States as it prepares to enter the decade of the 1990's.

PROPOSED SOLUTION

The solution proposed for the problem described above involves a combination of integration, technology, and training. Integration and technology are the weak links in the current system, and both are in need of enhancement so that staff resources can be utilized in a more efficient manner.

In order to provide an enhanced level of technology and integration, OMB has issued a request to the vendor community asking for their proposals for solutions to the problems of integration and technology. Vendors were instructed to propose only solutions which conform to the appropriate Federal Information Processing Standards (FIPS), and solutions which allow for adding capacity as needed in the future. It is believed that this new system will allow OMB to remain at a state of the art level for the 5 to 7 year life cycle of the system.

The timing of the acquisition is such that significant portions of the system will be installed when the new Administration takes office in January of 1989. The entire system will be installed and activated within about one year after that date.

The solutions which the successful bidder proposes will include a high performance local area network based on FIPS No. 107. It will also include an integrated word processing solution allowing documents to be developed and exchanged electronically between all levels of OMB staff. It will incorporate the OMB micro-computers into the overall configuration so that even greater use can be made of them. Training will be simplified because a standard system interface will be provided for all OMB staff. Finally, it will add functions that were not available on a wide scale at OMB such as electronic mail.

Additional benefits to be derived indirectly from the system include closer ties between OMB policy officials on one side of Pennsylvania Avenue, and the career staff on the other. There is no direct or easy way to measure or quantify benefits such as that, but they may be just as important as the direct benefits of the integrated automation environment.

REPORT LANGUAGE MEMORANDUM

Senator DECONCINI. Thank you, Mr. Miller.

Mr. MILLER. I understand, Mr. Chairman, that our staff have discussed a lot of the details concerning the major systems upgrade.

Senator DECONCINI. That is true.

On March 15 you sent a memo to all agencies and cabinet heads reminding them to remind their employees that: Congressional report language has no force of law. They are not approved by a vote on the floor of either House of Congress, nor are they presented to the President for his signature.

You go on to ask the agencies if they intend to follow congressional report requests, in full or in part. You conclude by saying: You may, however, redirect funds not legally required to be used for a particular wasteful, unnecessary, or low priority project to a legally authorized and higher priority project.

Section 107 of the continuing resolution specifically puts this issue to rest by effectively incorporating by reference all report language directed as if they were in the statute.

Mr. Director, why are you so hellbent on confrontation with the Congress on these matters and why did you send out such an inflammatory memo in view of the statutory requirements in last year's continuing resolution?

Mr. MILLER. Mr. Chairman, I am not anxious for a confrontation. What I am anxious to do is to make sure that the constitutional processes are followed and that the discretion afforded the President under the Constitution is exercised as best he sees fit.

If in fact these matters are required by law, then we shall carry them out. There is no question about it. But the lawyers that I have, inform me that the report language to which you referred, is not a matter of law. It was not presented to the President for a vote, for his response according to article I, section 7 of the Constitution.

Senator DECONCINI. Excuse me, Mr. Director, what about section 107 of the continuing resolution?

Mr. MILLER. As you know, Mr. Chairman, I am not a lawyer, but the words say: "amounts and authorities provided by this resolution shall be in accordance with the reports accompanying the bills as passed by or reported by the Senate."

Senator DECONCINI. It says the House and the Senate.

I just wondered, did you ask your counsel for his opinion before you sent out this memo?

Mr. MILLER. I reviewed the entire continuing resolution with my staff. I do not know. I would be glad to ask my counsel. He is not here, but we will ask him to take a look at section 107.

Senator DECONCINI. Mr. Director, I understand your job, I think. You are to advise the President on how to put together the budget and we work together and for the most part, I think, it works out well.

It seems as though OMB and the President have spent an inordinate amount of time combing through the continuing resolution looking for various projects that you feel are pork barrel. You have every right to do that. You have a lot of mileage, as we do out here when we have GAO reports that demonstrate that the executive branch hasn't done something proper.

We have been working on these projects. We don't have as much homework as you have done, but it really troubles me that the finger is pointed at us for pork barrel, but then when you see things in the President's budget it is good government.

The President's budget contains hundreds of millions of dollars for a variety of university related research projects. For example: the Department of Energy's budget contains $217,000 for university coal research; another $3.9 million for university coal research projects to support 20 new grants at universities; another $2.2 million for separation research at various universities; another $2 million for catalystic design research at Cal Tech; and the list goes on and on.

I am not saying that these are not valid or legitimate research projects, I presume they are. I don't call them pork, I presume you call them good government.

Another example which is of question is $20.8 million that has been requested for energy bioscience research for determining the amount of carbohydrates in plants. Of that amount 81 percent of the funding goes to universities, about $17 million.

I wonder how you explain that? Is that pork barrel in your judgment or is that just good solid government?

Mr. MILLER. I think the things that you have read, by and large, do not reflect earmarks for particular universities. The Los Alamos project, I believe, is being managed by the University of California. Technically, it might be listed as that.

Senator DECONCINI. $2 million for catalyst research at Cal Tech, but you are right most of these do not set forth a university, but that is an other question. Who does determine the university that is going to get that?

Mr. MILLER. The way that it is done is essentially through an RFP being put out, and requests are made. Universities bid for this in terms of the quality of the research that they are able to do.

Senator DECONCINI. But the agency, through a peer review or some process, they make the decision?

Mr. MILLER. That is right.

Senator DECONCINI. That is good government, but if we decide something should go someplace that is pork barrel.

Mr. MILLER. Mr. Chairman, you know that when these things are put in they are typically put in at the behest of certain Senators or Congressmen. What we are just asking is that the peer review process really make the determination of where they go.

I have had a long colloquy, as Mr. Kennedy knows, with Senator Hatfield about the peer review process and I am not here to represent that it is perfect, and we ought to improve that, but that is basically the——

Senator DECONCINI. We find some administrative costs. The Office of Inspector General at the Department of the Interior has requested an increase of eight FTE's, the cost for these eight positions is $944,000. The National Endowment for the Arts has requested four additional FTE's, the addition of these employees covers five pages of the justification and the cost is an additional $400,000.

The Office of Solicitor of the Department of the Interior requests an additional 20 FTE's, the cost is $2.3 million. The Social Security Administration has requested a 20-percent increase in travel budget, a $4.5 million increase over the fiscal year 1988 levels for social security employees.

How do you explain that one? Did you get into that one or does anybody on your staff get into that one?

Mr. MILLER. Yes; people on my staff got into the justification of each of these. I did not handle that personally.

Mr. Chairman, I would imagine that you have some questions dealing with the Coast Guard and with the Treasury, my associate director that covers that area, Carol Crawford is here.

We are missing a drug policy board meeting and I asked Carol to cover that for me, so if you would like to address some questions in that area, we might be able to respond to them.

Senator DECONCINI. Why don't you answer this one about the Social Security first, and then we will go to the drug questions.

Mr. MILLER. I don't really have an answer for you on the Social Security increase for travel. I would be glad to get back to you on that in writing.

For whatever questions you have there, I thought for Carol to offer some back up might be more efficient for you, but we are at your pleasure.

[The information follows:]

SSA LIMITATION ON ADMINISTRATIVE EXPENSES—TRAVEL

A comparison of actual and budgeted levels for the Social Security Administration's [SSA's] travel and transportation of persons is provided in the following table:

Fiscal year:	
1986 actual	$22,900,000
1987 actual	17,300,000
Fiscal year 1988:	
Appropriation request	28,600,000
Section 512 withholding	−5,300,000
Revised estimate	23,300,000
Fiscal year 1989 appropriation request	27,900,000

As indicated, SSA travel expenditures decreased dramatically in fiscal year 1987 compared to fiscal year 1986. In fiscal year 1987, SSA was forced to significantly reduce travel and other controllable costs, such as building services, to help deal with a budget shortfall which exceeded $200 million. This shortfall resulted mainly from congressional action which reduced SSA's appropriation request by $171 million. In addition, SSA had to absorb certain unbudgeted costs, most notably a January 1987 Federal pay raise worth about $45 million.

SSA's fiscal year 1988 appropriation request of $28.6 million restored travel to the normal fiscal year 1986 level of $22.9 million, adjusted to take into account additional money needed to cover new mileage and per diem rate increases (about $3 million) and claims modernization-related training travel (about $4 million) in fiscal year 1988. SSA's fiscal year 1988 appropriation request for travel and transportation of persons was subseqnelty reduced to $23.3 million as a result of withholding under section 512 of the Departments of Labor, Health and Human Services, Education and Related Agencies Appropriation Act (Public Law 100-202).

The Agency's fiscal year 1989 appropriation request provides for travel at about the prewithholding level originally requested for fiscal year 1988. Based on prior experience, SSA believes that this level is more representative of its needs. Among the special activities we will cover in fiscal year 1989 are continued computer-related training, along with training and other travel associated with SSA plans for expanded telephone service which includes a nationwide 800 number. Of course, the majority of SSA travel will continue to be devoted to title II and title XVI workload processing.

DRUG POLICY

Senator DECONCINI. One of the reasons many of us are skeptical about the President's real commitment to law enforcement is the habit he has made of cutting all or most of the portions for certain agencies that Congress provided in the previous fiscal year. For example, up until this year, the President continuously cut out hundreds of Customs positions that Congress repeatedly restored.

Last year Congress provided, and the President approved, 200 additional slots for the Armed Career Criminal Apprehension Program at the Bureau of Alcohol, Tobacco and Firearms. Perhaps it has been coincidental that President Reagan has proposed a cut of 216 positions at ATF in fiscal year 1989.

What this does is to effectively preclude any agency from carrying out a congressional mandate because they are faced with the elimination of those particular people that were specifically added.

Why are you deleting the 200-plus positions from ATF?

Mr. MILLER. Carol, do you want to answer.

This is Carol Crawford, Associate Director for Economics and Government.

Ms. CRAWFORD. With respect to your first question on Customs, in the past, proposed reductions in FTE's in Customs' budget were—not on the drug side, but on the commercial activities side.

The Congress has been funding, with our strong support, automation in various Customs' commercial activities. To the extent that commercial activities are being automated, it reduces the need for the additional personnel.

Senator DECONCINI. Excuse me, those same people also do drug enforcement.

Ms. CRAWFORD. Some people work virtually entirely on commercial activities, while others work virtually entirely drugs. For the most part, however, there is definitely an overlap.

Senator DECONCINI. What do inspectors do?

Ms. CRAWFORD. The largest piece of the commercial program involves the massive exchange of commerce between, for example, the Mexican border and the U.S. border.

Senator DECONCINI. Yes; I have been down there and I have seen them. Those inspectors are looking for drugs as well as the commercial part of it to see what the duty is. Isn't that correct?

Ms. CRAWFORD. That is correct. Absolutely.

Senator DECONCINI. How do you justify cuts then?

Ms. CRAWFORD. Again, for example, you have been on the border?

Senator DECONCINI. Many times.

Ms. CRAWFORD. We have funded automation, for example, ACS, which you are familiar with.

Senator DECONCINI. They are not even online yet, did you know that?

Ms. CRAWFORD. Most of ACS is online.

Senator DECONCINI. Most of them are not totally operated, at least not down on Brownsville. They are just down there and they are still putting them in there, so they are not even in place yet.

Ms. CRAWFORD. The program is still well underway, although I don't know what percentage of it is.

The Customs people we have visited and the information the OMB examiners have obtained suggest that Customs' is very pleased with the automation because it enhances Customs productivity substantially.

Senator DECONCINI. I agree with you on the automation and I don't know how much underway it is either, what percentage, but it is a long way from being there, if that is the justification for cuts.

What troubles me, Mr. Director, is that if we are going to do something about drugs, how you as the OMB Director and how the Attorney General can justify cuts in the interdiction agency that is designated by your Drug Policy Board——

Ms. CRAWFORD. Senator, we have increased FTE's.

Senator DECONCINI. Yes; you did in 1989, but not in 1988 and not in 1987.

What we want to see is the commitment long standing. I applaud you for your 1989 budget. My trouble is: What are we going to have in the future? Maybe you will be still here.

Mr. MILLER. No; that will be another administration.

Mr. Chairman, we have a $4 billion drug program. About $3 billion of the $4 billion is on the supply side: drug interdiction, enforcement of the laws, and detecting, prosecuting, and imprisoning people that violate the law with respect to drugs.

I think one of the things that we have been trying to do in the past few years pursuant to the work of the Drug Policy Board, is to place more emphasis on the demand side.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS STAFFING

Senator DECONCINI. Can you address deleting the 200 plus positions for ATF in fiscal year 1989 after the President approved them in fiscal year 1988?

Mr. MILLER. He approved them in what way? You mean he signed the mammoth continuing resolution. My goodness, the action of signing the omnibus continuing resolution does not indicate that the President actually supported every individual item contained in the bill. There are a lot of things in a mammoth continuing resolution that raise hackles with the President that he wouldn't approve of or that he disapproved, but it is just because——

Senator DECONCINI. Is the law the law?

Mr. MILLER. The law is the law.

Senator DECONCINI. I mean the continuing resolution is the law?

Mr. MILLER. It doesn't mean the following year he has to propose exactly the same thing, Mr. Chairman.

Senator DECONCINI. Of course not. That is why I am asking: Why did you cut them?

Ms. CRAWFORD. Let me provide an answer for the record. I think we had some basic disagreements with respect to the competing requests of the many agencies that have law enforcement or drug interdiction missions.

[The information follows:]

ALCOHOL, TOBACCO AND FIREARMS

We expect that ATF will have more agents actually working in law enforcement programs in 1989 than in either 1987 or 1988 despite the proposed FTE reduction. This is due to the fact that (1) a large number of ATF agents have been detailed to the Secret Service in 1988, and (2) the hiring and training of new officers has proceeded more slowly than anticipated.

As you are aware, 750 ATF agents have been trained by the Secret Service in order to assist in candidate protection during 1988. It is estimated that approximately 120 FTE will be expended on details to the Secret Service in 1988. You are probably also aware that ATF has had some difficulty staffing up to authorized FTE levels. In 1987, $4.7 million in budget authority lapsed and the agency used 326 FTE less than they were authorized. Based on the current staffing level as of February 1988, ATF would realize an end-of-year staffing level that is 205 FTE less than the authorized level of 3,451. In making our budget recommendation for 1989, we felt that with new agents hired in 1987 and 1988 becoming fully trained in their assignments and veteran agents returning from Secret Service details, a reduction in the staffing level would not be accompanied by any drop in trained agents assigned to ATF enforcement programs.

The 1989 President's budget also proposes that responsibility for the Contraband Cigarette Program be turned over to the States. This action formally recognizes what has unofficially occurred over the past several years. Since Public Law 95-575 was first enacted in 1978, ATF has provided individual States with the training and technical expertise to develop their own programs to eliminate racketeering in the sale and distribution of cigarettes. In 1987, ATF expended 51 FTE and $3.8 million in this program while initiating 16 cases and recommending only one suspect for prosecution. It appears that we have reached the point where the resources devoted to this effort should logically be redirected elsewhere.

CAREER CRIMINAL PROGRAM

Senator DECONCINI. Have you had a chance to be briefed by ATF on this Career Criminal Program?

Ms. CRAWFORD. I have not personally been briefed.

Senator DECONCINI. This is about the Jamaican posse and the violence that is involved.

Ms. CRAWFORD. I think it is a question of setting priorities and a high priority program such as this one, definitely ought to be funded and can be funded at adequate levels within funds requested. Some of the lower priority programs ought not to be funded.

Mr. MILLER. I thought this was something that the Department of Justice was highly involved in. I didn't realize the BATF was handling the whole thing.

Senator DECONCINI. If someone on your staff would go down there to look and to get a briefing, as we have done here, you would see what they are doing just toward this Jamaican posse group, not to mention a few other highly organized violent career criminal people. The reason they are involved in it is because there are arms.

Ms. CRAWFORD. My recollection is, Senator, that high priority investigations involving armed career criminals will be conducted within the resource levels requested. What was not funded was, for example, the Cigarette Program.

Senator DECONCINI. But you cut 216 positions at ATF for 1989.

Ms. CRAWFORD. It is still higher than the 1987 level.

Senator DECONCINI. That is true. My question is why do you want to cut when they have this new program?

You are saying take it out of tobacco enforcement. Why not let tobacco enforcement stay where it is and move ahead. I understand you are trying to save money but——

Mr. MILLER. Mr. Chairman, we are trying to meet the outlay and budget authority numbers that we agreed to last November 20 in the bipartisan budget agreement. It isn't easy. It is a zero sum game. We spend more here, we have to spend less somewhere else and as you can imagine, Mr. Chairman, it is tough making those choices.

COAST GUARD FUNDING

Senator DECONCINI. I understand.

We have a problem with the Coast Guard. Because of that reconciliation bill they got cut $60 million. They have come up here for a reprogramming.

Mr. MILLER. They cut $100 million from the President's budget. Congress appropriated $100 million less for Coast Guard last year than the President asked for and we have come up for a $60 million reprogramming.

Senator DECONCINI. First of all, you approved that reprogramming, I presume?

Mr. MILLER. Yes.

Senator DECONCINI. Did you help determine where you were going to find that $60 million?

Mr. MILLER. Yes; we worked with the Department of Transportation in finding places to reprogram.

Senator DECONCINI. I am very interested in seeing that approved, but as you know it hits the guts of a few sensitive areas up here.

Mr. MILLER. Where would you get it?

Senator DECONCINI. That is what I want to ask you: Can you confide with us, what were some of the options?

Mr. MILLER. There were no good options. We took the least worst.

If you look at it, you are not going to cut from air traffic controllers, you are not going to cut from a lot of other places. Mass transit is an area where spending can be deferred, spending is not really very cost effective in our judgment, this is where we thought was the best place to get the funds, the offsets.

NEW DRUG LEGISLATION

Senator DeConcini. Let me ask you a question, Mr. Miller. I would like to get your views, if you have had a chance and if you haven't you can supply them, on S. 2205, the Omnibus Drug Bill Act of 1988, introduced by Senators D'Amato, Domenici, and myself, and it has 61 cosponsors as of today.

The bill calls for spending of $2.4 billion over and above the President's budget for eight different areas of antidrug efforts, including: interdiction, source country eradication, treatment and rehabilitation, drug education and research. It contains a mechanism for paying for the bill through enhancement of IRS collection and enforcement plus accelerated collection of debts.

We had Mr. Gibbs before us just 10 days ago, sitting where you are, and he indicated that he had asked for $268 million from OMB which would have brought in almost $1.2 billion in 1989, and that OMB had turned him down for that. That is part of the area that we would suggest being used.

These additional revenues would be deposited into a special fund to be used only to pay for the drug bill. The bill would meet the economic budget summit due to these offsetting revenue increases and wouldn't be funded if it did not.

Have you had a chance to look at this yet?

Mr. Miller. Mr. Chairman, I haven't had a chance to review it in detail. My staff has given me a very brief briefing on the bill.

From what I understand, however, I would just respectfully disagree with you. I think it would violate the budget agreement. The budget agreement has a certain amount of increased revenues. It also has ceiling levels in terms of outlays for domestic discretionary spending.

From my quick review I don't see how in the world you can add this revision here and not break those outlay ceilings.

Senator DeConcini. Even if you have the revenues to fund it?

Mr. Miller. I understand how you would do it. That you would increase IRS collections and, again, without taking issue with the analysis of how much increase in collections there would be, it would violate the agreement. It surely would.

Senator DeConcini. It would violate the agreement even if there were offsetting revenues?

Mr. Miller. Yes, sir; it would. That is my judgment, and I believe that is the correct one.

On the other hand, we surely don't disagree with your objective. Goodness knows, we need to terminate the flow of drugs in this country. We need to interdict drugs. We need to do a lot about education and so forth. That is the reason the President proposed a $4 billion drug program.

DRUG POLICY

Senator DECONCINI. I am glad the President did, but what troubles me is that the President talks about it being a national security problem just as great, in his words, as any foreign enemy. When we spend the kind of money we do protecting ourselves from foreign enemies I would sure like to see us protect ourselves from this foreign enemy.

Let me ask you a question, if I can, you are going to the Drug Policy Board and I won't keep you long.

The Drug Policy Board has finalized a number of things, and I want to applaud you for whatever input you had on some of its decisions.

Can you give me just a brief situation now as to the command and communications center in Florida. Has that been resolved with the Drug Policy Board, do you know?

Ms. CRAWFORD. What aspect of it?

Senator DECONCINI. The location of it or was that left of the agencies?

Ms. CRAWFORD. No; I think that has been resolved. I haven't heard that there are any problems recently.

Senator DECONCINI. How about the hiring of border patrols and people for the fulfillment of the thousand additional border patrol?

Ms. CRAWFORD. The request is in the budget to hire out for border patrol.

Senator DECONCINI. What about for 1988?

Ms. CRAWFORD. I would have to go back and check the numbers, Senator, to determine when the end-year result is.

Senator DECONCINI. What about the docking facilities in the Bahamas that the Drug Policy Board had approved, do you know where that stands?

Ms. CRAWFORD. As far as I know that is all on track. I am not aware of any problems.

Senator DECONCINI. The reason I asked those questions is, having Mr. Keating testify before a joint hearing with Representative English, we found that maybe the policy board members don't have all the information before them.

Clearly, in that instance, he did not know—I am sure he didn't purposely mislead us—about the filling or the nonfilling of the border patrol positions.

I wonder how specific the policy board gets?

Ms. CRAWFORD. That is not within his jurisdiction, so I can see that he might not.

Senator DECONCINI. He said that Operation Alliance for the Southwest border is specifically his jurisdiction. He was very upfront about it. He said: I just took somebody's word, I didn't go check.

My question is not to accuse you of anything, but when you are at those policy boards, do you get into some of the specifics to find out and satisfy that these things really happen, because I think expectations are raised, particularly when the President says positive things about drugs—the battle is over, or the war is won and we are going to cure this problem.

Then, I wonder if the administration really sees that these are implemented?

Ms. CRAWFORD. I think that the Drug Policy Board has really done what it set out to accomplish and that is to provide a coordinated drug strategy through the various agencies that have long been competing with each other for resources to fight the war on drugs.

Senator DECONCINI. But, what do you do for your director here to be sure that these things are followed and are completed? Is there any procedure you take yourself?

Ms. CRAWFORD. I spend a good deal of time on drug issues and Drug Policy Board work.

There are two formal operating levels for the Drug Policy Board and then these are informal levels. The Drug Policy Board itself, which is at the Cabinet level, and which is meeting at 10 today, that meets monthly.

Then there are two coordinating group meetings which are generally assistant secretaries. I am a member. All the agencies are represented at the assistant secretary level usually. These groups also meet at least monthly. It reviews various issues in greater detail and receives a number of reports from various working groups such as special reports that have been issued or studies that are done. It is more of a working group level.

In addition to the coordinating group, the coordinating group has set up a number of special committees and specific working groups to address very specific questions.

Senator DECONCINI. You are satisfied that when the policy board makes a judgment it is carried out. You go back and review that yourself and find out for yourself to some satisfaction.

Mr. MILLER. For some of this you rely on the incentives that people have. You have people coming forward who are quite strong advocates of particular points of view and particular resource allocations, et cetera, and when you authorize those to happen, you presume that they are being carried out because you know the people involved have a great incentive to do that.

Senator DECONCINI. Excuse me, Mr. Miller, let me just give you a good example: Customs and Coast Guard have been working on a docking facility in the Bahamas for a long time and they have really worked hard. The Bahamian Government had found a location and then had to refind a location; I wonder if the Drug Policy Board finds out about all the problems that are going on with that particular area.

It seems to me that the Drug Policy Board exists not only to make a decision vis-a-vis Customs. You are the head of all interdiction, now go do it. It seems to me the policy board can play such a major role in saying: Why isn't this accomplished? You have had 18 months and you don't have the docking facility. We want you to come report to us. If you need some decisions made, we will make them. If you need some other assets, maybe we can find them. That is what I am getting at.

Mr. MILLER. There is staff on the Drug Policy Board that is involved in following through on these activities. Again, as Carol indicated, the role of the Drug Policy Board is to resolve conflicts among agencies and to establish broad parameters and goals.

The subgroups established by the board tend to deal with specific details, but you would be surprised at how frequently at a Drug Policy Board meeting, much time is spent on details. I don't recall discussion of this particular instance, but that particular instance is generically similar to things that we have discussed.

Senator DECONCINI. I only raised the issue in hoping that some of you on the Drug Policy Board would assign someone to find out some answers to these or to solicit them from the agencies.

Mr. MILLER. I would be glad to get back to you.

Senator DECONCINI. I think the Drug Policy Board, after you got over the hurdle of putting it together and getting some decisive leadership, and the Attorney General really have come down decisively in this area and it is very encouraging.

Now the followup troubles me and that is why I asked you those questions.

Mr. MILLER. Those are very good questions and we will get on it and get back to you.

One of the things, of course, we will do is our examiners will follow up all these things.

Senator DECONCINI. You don't even have to get back to me. I raised it with the hope that it would bring that spirit there. I have done this with the Attorney General and although he is very busy, he has people assigned to it.

But after Mr. Keating didn't know what was going on with the border patrol on the Alliance project that he specifically is designated by the policy board to be the supervisor of, it concerns me.

Mr. MILLER. Sure.

COMMAND AND COMMUNICATION CENTER

Senator DECONCINI. Please provide me with the status of the following: the Command and Communications Center; hires of border patrol; a dock facility in the Bahamas; and the Alliance project.

Mr. MILLER. The Command and Communications Center at March Air Force Base in California is expected to have operational capability on April 15, 1988. The Miami Command and Communication Center is currently under construction and operational capability is expected to occur in August 1988.

With respect to hiring of border patrol, I would like to submit a table supplied to OMB by the Customs Service on its planned staffing increases in 1988. It shows that 20 percent of the increases for Customs will be in the Southwest.

With respect to the docking facility in the Bahamas, I assume that you are referring to the status of the Customs facility at Gun Cay. Currently, the operation at Gun Cay is equipped with Customs Blue Thunder boats and a large vessel used as a radar/communications platform. Due to the lack of any support facilities at Gun Cay, Customs personnel are housed at a nearby island. Customs has developed a preliminary site plan for a permanent facility at Gun Cay, which would provide the support to house Customs personnel and a permanent docking facility. Customs is currently awaiting Circular 175 authority from the State Departrment, which will enable it to negotiate directly with the government of the Bahamas for the facility's construction.

Project Alliance continues to work very well. Drug seizures along the Southwest border have increased dramatically because of the cooperative efforts among Federal, State, and local law enforcement agencies. Project Alliance efforts are credited with the seizure of 8,520 kilos of cocaine in 1987, four times the amount seized in 1986. Marijuana seizures doubled between 1986 and 1987, increasing from 60,409 kilos to 135,492 kilos.

[The information follows:]

U.S. CUSTOMS SERVICES INCREASES FOR FISCAL YEAR 1988
(Includes all offices at those locations)

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
NORTHEAST REGION												
Baltimore, MD	7	1	0	0	0	0	0	1	1	0	0	10
Boston, MAS	8	2	17	0	3	8	0	6	2	10	0	56
Buffalo, NY	0	1	0	0	0	0	0	0	2	0	0	3
Ogdensburg, NY	0	1	0	0	0	0	0	0	1	0	0	2
Philadelphia, PA	0	1	0	0	0	0	0	1	0	5	0	7
Portland, ME	0	1	0	0	0	0	0	1	0	0	0	2
St. Albans, VT	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Northeast Region	15	7	17	0	3	8	0	9	6	15	0	80
New York Region												
New York	0	13	51	0	11	0	0	20	1	19	0	115
JFK International	15	0	0	0	0	0	0	5	7	0	0	27
Subtotal, New York Region	15	13	51	0	11	0	0	25	8	19	0	142

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
North Central Region												
Chicago, Ill	10	1	50	0	0	13	0	6	1	6	0	87
Cleveland, OH	11	1	0	0	0	0	0	3	0	0	0	15
Detroit, MI	0	0	0	0	0	0	0	0	1	1	0	2
Great Falls, MT	0	2	0	0	0	0	0	0	0	0	0	2
Milwaukee, WI	0	0	0	0	0	0	0	1	0	0	0	1
Denver, CO	0	0	0	0	0	0	0	1	0	0	0	1
Cincinnati, OH	0	0	0	0	0	0	0	0	0	5	0	5
St. Louis, MO	0	2	0	0	0	0	0	1	0	5	0	8
Minneapolis, MN	0	0	0	0	0	0	0	0	0	0	0	0
Pembina, ND	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, North Central Region ...	21	6	50	0	0	13	0	12	2	17	0	121
SOUTHEAST REGION												
Savannah, GA	0	1	0	0	0	0	0	3	2	0	0	6
Tampa, FL	0	2	0	0	0	0	0	2	1	0	0	5
Miami, FL	51	3	18	0	1	0	0	3	3	3	0	82
Freeport, Bahamas	2	0	0	0	0	0	0	0	0	0	0	2
Norfolk, VA	1	0	0	0	0	0	0	0	0	0	0	1
Charleston, SC	0	2	0	0	0	0	0	1	1	0	0	4
Wilmington, NC	5	1	0	0	0	0	0	2	0	0	0	8
Charlotte, NC	0	0	0	0	0	0	0	0	0	6	0	6

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
SOUTHEAST REGION												
Atlanta, GA	0	0	0	0	0	0	0	0	0	7	0	7
Jacksonville, FL	0	0	0	0	0	0	0	0	0	0	0	0
Pensacola, FL	0	0	0	0	0	0	0	0	0	0	0	0
Tyndall, FL	0	0	0	0	0	0	0	0	0	0	0	0
Puerto Rico	0	0	0	0	0	0	0	0	0	0	0	0
Washington, D.C.	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Southeast Region	59	9	18	0	1	0	0	11	7	16	0	121
SOUTH CENTRAL REGION												
Mobile, AL	0	1	0	0	0	0	0	0	0	1	0	2
New Orleans, LA	0	0	8	0	0	6	0	2	0	4	0	20
Memphis, TN	3	1	0	0	0	0	0	0	0	0	0	4
Nashville, TN	0	0	0	0	0	0	0	0	0	3	0	3
Subtotal, South Central Region ...	3	2	8	0	0	6	0	2	0	8	0	29
SOUTHWEST REGION												
Laredo, TX	49	1	0	0	0	0	0	1	1	0	0	52
El Paso, TX	75	4	0	0	0	0	0	1	1	1	1	83
Nogales, AZ	27	1	0	0	0	0	0	2	0	0	0	30

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
SOUTHWEST REGION												
Dallas/Ft. Worth, TX .	0	1	0	0	0	0	0	1	0	3	0	5
San Antonio, TX	0	0	0	0	0	0	0	0	0	0	0	0
Houston, TX	0	1	8	14	0	0	0	0	2	10	0	35
Tucson, AZ	0	0	0	0	0	0	0	0	0	0	0	0
Corpus Christi, TX ...	0	0	0	0	0	0	0	0	0	0	0	0
San Angelo, TX	0	0	0	0	0	0	0	0	0	0	0	0
Phoenix, AZ	0	0	0	0	0	0	0	0	0	0	0	0
Albuquerque, NM	0	0	0	0	0	0	0	0	0	0	0	0
Oklahoma City, OK	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Southwest Region	151	8	8	14	0	0	0	5	4	14	1	205

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
Pacific Region												
San Diego, CA	48	1	0	0	0	0	0	1	2	0	0	52
Los Angeles, CA	5	1	20	0	5	0	0	28	1	13	0	73
San Francisco, CA	6	1	0	0	0	0	0	4	2	0	0	13
Portland, OR	7	0	0	0	0	0	0	2	0	3	0	12
Honolulu, HI	2	0	0	0	0	0	0	0	1	0	0	3
Seattle, WA	0	1	0	0	0	0	0	2	2	1	0	6
San Jose, CA	0	0	0	0	0	0	0	0	0	3	0	3
Riverside, CA	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Pacific Region	68	4	20	0	5	0	0	37	8	20	0	162
SUBTOTAL, CUSTOMS OPERATIONS	332	49	172	14	20	27	0	101	35	109	1	860
Other Positions	10	0	14	0	32	4	46	20	4	60	37	227
TOTAL CUSTOMS OPERATIONS	342	49	186	14	52	31	46	121	39	169	38	1,087

Note: Regional cities include some positions which have not yet been allocated by the regions to the districts.

STATE AND LOCAL ANTIDRUG ASSISTANCE GRANTS

Senator DECONCINI. Let me ask you a question and you may want to answer some of this.

The major policy initiative that you point to with some pride is your abolition of the State and local antidrug assistance grants.

You say on page 27 of the "Major Policy Initiative" book that there is little reason why every Federal taxpayer should support the cost of crime preventional programs with local and regional benefits.

You also imply that these grants are intended to be one-shot deals, even though Congress and the President enacted legislation that calls for several years of funding for the programs.

Aren't you really being shortsighted, Mr. Director, in not supporting these programs for local law enforcement?

It seems to me we are telling Miami and Los Angeles: You just carry the ball yourself. You can do our bit without us. Anybody who is in law enforcement realizes that if you don't have cooperative efforts, if you can't offer some initiative to local law enforcement, you are not going to be really effective in trying to stop drugs.

It troubles me that this program is wiped out and I have had lengthy discussions with the Attorney General about it. I would like to hear your explanation.

Mr. MILLER. Mr. Chairman, of course, in this omnibus drug bill that the Congress passed and the President signed, these grants were authorized for 3 years.

Again, we opposed that provision in the bill, the authorizing of those grants, so the fact the President signed an omnibus bill doesn't mean that he agreed with every specific item in the bill.

Senator DECONCINI. Maybe not as you got into it, but how do you explain the President's statement? I don't have it right here, but he said he was committing everything. He was committing all the assets of this government, I believe his term was, to this drug problem.

Now, if you say a general statement like that, it goes out across this land, and then his OMB Director, or his Attorney General comes back and it cuts out one of the things. Either you have a commitment or you don't.

Mr. MILLER. We have a commitment, Mr. Chairman. We have proposed substantial funding for the antidrug programs. We believe that $270 million is better spent somewhere else. Actually, it has come down. This year the authorization was something like $70 million and we thought it would be better spent somewhere else.

State and local governments have realized a minuscule increase in their total budgets devoted to drug areas compared to what the Federal Government has done.

Senator DECONCINI. I am not too sure that is correct. I don't know. If you have facts to back that up, I would welcome them.

Mr. MILLER. In each State that is not the case, but maybe that is true overall. I have been told, particularly, by the Attorney General: The State and local governments have increased their resources in the drug area in a very small proportion as compared to the Federal Government.

DRUG ENFORCEMENT EXPENDITURES: LOCAL VS. FEDERAL INCREASE

Senator DECONCINI. Please compare the increase in local government expenditures for drug enforcement to the Federal Government's increase for drug enforcement.

Mr. MILLER. The record of growth is impressive in the Federal Government. Since 1981, Federal expenditures for drug law enforcement have grown by 216 percent, from $800 million in 1981 to $2.5 billion in 1988. For 1989, the President's budget propose a further increase of $334 million, a 13-percent increase in just 1 year.

Unfortunately, we have little detailed data available on State and local expenditures. The information that the Attorney General provided was that State and local governments have fairly consistently spent about 3 to 5 percent of their law enforcement funds on drug enforcement.

Senator DECONCINI. Are you not saying then by your budget: States, don't look to us for any assistance economically.

Mr. MILLER. They do. We do provide an enormous amount of cooperation, coordination with State and local governments and the State and local governments have these assets, the forfeiture receipts.

Senator DECONCINI. The no-grant program, right?

Mr. MILLER. That particular specific grant program.

Again, there are a lot of other grant programs that we have in the Federal Government that could be used for those purposes if State and local governments choose to do that.

Ms. CRAWFORD. If I could add something, Senator?

Senator DECONCINI. Please do.

Ms. CRAWFORD. I think to really underline what Mr. Miller is saying, in a tight fiscal constraint, as we were this year, there were extreme pressures, obviously, to make the most of every dollar we had. We didn't have as many dollars as some of us might have liked. We had to find ways to get the most effective use out of every dollar.

In making those decisions, the straight giveaway grant money, I say giveaway, that is just straight out grants. There is no Federal determination. It is not a Federal program, it is a Federal grant program to the State and locals.

The dollars spent in giving money to the State and locals was deemed to be not as cost effective as increasing the funds for the array of other directly operated Federal programs aimed at supply and demand.

Senator DECONCINI. How do you make that conclusion, do you have a study or anything that concludes that these are not cost effective?

Ms. CRAWFORD. I think it is through a variety of sources. We don't really know how effective they are, because we have very few means of getting back any information on the State and locals.

To the extent that research has been done, the literature has shown—and I think the Congress concurred in the determination of eliminating general revenue sharing—that the funds from the Federal to the State and local governments is often used to substitute for rather than to supplement.

Senator DECONCINI. You are suggesting that this program is like general revenue sharing. This was set up for law enforcement and education programs. That is what we appropriated $70 million for when you put in nothing in 1988, and now you have put in nothing for 1989.

Ms. CRAWFORD. Into State and local grants, but there is a $450 million increase which is vastly more than the reduction in State and local grants, a 13-percent increase, for directly operated drug programs through the various agencies.

Mr. MILLER. That is right.

Senator DECONCINI. In fact, and education is up by $20 or $30 million. My compliments to you.

Mr. MILLER. In fact, I think every program in the whole drug area, except for this one, is up. We think that that is a matter of priority. I think that this is a matter that should be absorbed by the State and local governments.

Senator DECONCINI. We won't belabor this any longer, except to say, I wish you would take a better look at thateYou are maiing a conclusion that these are not cost effective and you have nothing to base that on, except your hunch; isn't that correct, I mean you don't have any study or anything.

Ms. CRAWFORD. This is not cost effective and not consistent with the administration's previous position on this kind of arrangement.

Senator DECONCINI. What would be encouraging is if you went and talked to some of the local law enforcement and got their views as the Senator from New Mexico and many of us have done.

I am not just here trying to fill in the local economy and help the local sheriffs so that he can put his political machine out there for us, anything like that. We are doing it because they don't have radios, because they can't communicate. Customs has given them radios, or loaned them some radios, and that is not even in this program.

But they would like to have some place to cooperate in their drug task force that they put together themselves in my own State, which happens to be the case along the border. The four counties have a drug task force that they put together by themselves. They can't get all funded out of the State. A few million from this program would help them do it.

Ms. CRAWFORD. To the extent that the southern border States are more heavily impacted by drug activities, I think there will be a substantial increase in funds available and assets available through the asset forfeiture fund. There is a great deal of sharing. I think the cooperation level at the State and Federal level has increased substantially.

Senator DECONCINI. I agree, but the sharing of assets is really another question, which may fall into what their priority needs. They need a new Cessna 320, or something, and they confiscate one, great, it falls into what they need, or if they need a new jeep. But if they have a request in there that they need voice silence equipment, they are not likely to catch that kind coming across the border. That is the problem.

If you want this thing to work on a cooperative effort, my encouragement is to give reconsideration to local and State participation, and maybe you are right, maybe we need more controls. As a matter of fact, the bill that we introduced last week, with the Senator from New Mexico, puts in accountability, reporting, and demands that the State and local governments satisfy that this is happening and that we have the right to audit those things, because that concerns me, too.

Ms. CRAWFORD. If we were to reconsider the grants, which I think may not be possible, but if we were, where would you subtract?

Senator DECONCINI. What about travel? You have $400- some million.

Mr. MILLER. For Social Security.

Senator DECONCINI. What, the travel?

Mr. MILLER. Is that what you are referring to, the issue raised before?

Senator DECONCINI. I have a question about Social Security, if you want to go back to that. You have requested a 20-percent increase in travel budget for Social Security, $4.5 million over the 1988 level.

I just pointed out that $20.8 million has been requested for energy bioscience research for determining the amount of carbohydrates in plants. How about taking that out? Maybe that is not as high a priority.

Mr. MILLER. We will get back to you on that, Mr. Chairman.

Senator DECONCINI. That is good enough.

I am going to yield to the Senator from New Mexico.

Carol has to go to the Drug Policy Board, if you have any questions of her.

Senator DOMENICI. If that is where she is going, I am delighted. I know that she is on a tight timeframe, but I can't think of anything more important.

Mr. MILLER. I would be there myself, Senator.

DRUG POLICY

Senator DOMENICI. Frankly, I have been rather praiseworthy, I want you to know, of the President's budget. I don't see how Congress is going to accomplish all the cuts in order to give you the add-ons for futuristic programs. I am sure you are aware that the House Budget Committee didn't come close. We will go with about 60 percent or 70 percent of them, which I think is pretty good. At least that is my guess of the add-ons. You will never get the terminations that you have recommended.

I do think that there is one area which needs to be addressed, and I don't take these issues too lightly. I think the area of the increasing problem of drugs among our young people, hard drugs, is just a national disaster waiting to take effect.

In fact, I have said to you, Mr. Miller, and I know you understand, that we need to at least work on the issue of what really makes the American economy grow, and why can't we be optimistic; and at how right are all these people predicting GNP growth and macro issues. But I just want to leave you, for the remaining months of your term, with the notion that has come to me lately. Some of these social problems may be more of a drag on the economy than many of us are able to figure.

Mr. MILLER. I think you are right.

Senator DOMENICI. I said at a press conference that if we are going to fail the next 8, 9, or 10 years in terms of building the economy up, we may be looking at tax policy, and we may be looking at interest rates, and we may be looking at how safe is it to borrow so much from foreign countries. I think we are beginning to understand those. But I don't think we are anywhere close to measuring the negative effects of losing a generation of kids to drugs.

If you want to be scared to death, just read the explanation of coke which appeared in the newspaper over the weekend, just a simple explanation of what happens to these young people who get on coke. How easy and cheap it is, and how they are just wiped out.

I frankly think that the First Lady has done a marvellous job, but I am not so sure that the rest of government has backed that up with a mobilized effort way down at the grassroots. We can't escape ite If there is anything I would try to find money for in this budget, it is to dramatically increase our efforts with reference to foreign countries that are permitting the drugs to come in.

I think the time has come when we are going to help local law enforcement, and that is not an easy decision for me to make. I was around when LEAA probably was a 50-percent waste, maybe 60, but it did a few things. I am telling you, when you cross this country and you see on television every night what is happening in the slums and in the streets, you have got to be scared.

I don't know how these law enforcement people in Washington are doing. You watch television and there are five or six drug murders every other night, 20 or 30 of these people locked in an apartment that they rented through coercion, there is a stove and they are making coke.

What are they doing with them? We don't even have places to keep them, much less prosecute them and get them off the streets. I just believe that we have to do something that fits the nature of this problem.

I am not critical, other than, I think, wherever there was funding, you should have continued it. I do have an argument with reference to the grants, but we have forgotten to mention that you have increased every other national program that is directed at drug prevention, and under a tight budget. We may not even be able to do that ourselves, while we are all talking about it, because we have to cut something in order to increase things. I don't know if anyone wants to cut anything around here. They want everything from the past and also the new needs.

I have no questions on drugs, other than I wanted you to hear that much from me. Thank you very much for lending me your ear.

Ms. Crawford. Thank you very much.

REPORT LANGUAGE MEMORANDUM

Senator Domenici. I assume, in my absence, you asked about the Director's directive with regard to report language.

Senator DeConcini. We did, and maybe he would like to go over it.

Mr. Miller. Yes, Mr. Chairman. My acting general counsel, Robert Damus, is here. Robert, would you come up. My understanding is that he did, in fact, review specifically section 107.

Mr. Damus. As that language was enacted, it was changed somewhat.

Senator DeConcini. We added the House language.

Mr. Damus. The continuing resolution itself says:

> Amounts and authorities provided by this resolution shall be in accordance with the reports accompanying the bills as passed by or reported to the House and the Senate and in the joint explanatory statement of the conference accompanying this joint resolution.

We did consider section 107 shortly after the bill was passed, and then again prior to the time we issued this memorandum. It was our view that section 107 did not incorporate or enact into law those reports.

First of all for the reason the act does not say so, it does not purport to, for example, say that there is hereby enacted into law, or we are hereby incorporating in this act as if enacted into law, or some such similar language.

Second, the language refers to the reports accompanying the bills as either passed by or reported to either House, so you are talking about four different reports plus the conference report. That is five different reports that were being asked to be referred to for any given provision that might be in the law. We interpreted that, therefore, as simply being a direction to look to all of those reports for guidance, not as if the Congress was telling us that all five of those reports were being enacted into law.

Senator DeConcini. Excuse me. Let me you ask you—I want you to finish that. I appreciate the five different references you make. But how did you get around, in your own legal judgment, "This resolution shall be in accordance with the reports," that is in the continuing resolution?

It doesn't say maybe, it says, "shall be in accordance." Is that not legal terminology that mandates that you follow those reports, even though it does say that it shall be incorporated as if cited herein, as we should have done, obviously, to satisfy you?

Mr. Damus. No, sir; I wouldn't say that that was a direction to look to all of those reports simply for guidance, not as the mandatory legislation or enactment into law.

Normally, as a matter of legislative history, you look to these reports. In the case of this continuing resolution, none of these underlined bills or appropriation acts were, of course, enacted individually. They were simply rolled into this continuing resolution. To make these reports in the Senate and House useful, to indicate that they were to have their normal guidance, even though none of those acts were passed by the Congress, it was my interpretation that that was to direct us to those reports for bills that were not enacted, but were simply put into the continuing resolution.

I would also note that the Congress, of course, when it wishes to enact something into law by reference to some other document, in this very continuing resolution, for example, used the following language with respect to the appropriations act themselves, the 13 acts that were incorporated into the continuing resolution, 101(m) makes "an appropriation of such amounts as may be necessary," et cetera, "to the extent and the manner provided for, the provisions of such act, Treasury and Postal, to be effective as if they had been enacted into law as the regular appropriations act as follows:" That, of course, would be language, in my judgment, that would enact it, it did so, and it set out the act.

But this type of language where we are merely referring to five different documents, which may not be consistent, of course, as the continuing resolution itself is the product of the conference, the House and the Senate versions of what went into this could be quite different on individual items, and indeed were different on individual items. So we couldn't literally, of course, follow each one of these reports, and view each one of the reports as absolutely binding.

In view of all that, we concluded that this was a direction to use these reports as guidance and not a provision which did or even purported to actually enact these into law.

Senator DeConcini. Of course, you are the lawyer for the Government that has to interpret this, but I think there is a fair argument that even the reference of the bills as reported in the conference report would govern. The conference report includes all of those, even in the continuing resolution. "Shall be in accordance," you just taught me a good lesson on constructing words. It seems to me that what you are forcing this Congress to do is incorporate all report language into the laws, and I think that that is unfortunate.

Mr. Miller. Mr. Chairman, could I just mention, if we are going to look at legislative history end what was intended here, or whatever, I would surely have changed my recommendation to the President of the United States. No one knows what he might have done. He would have done whatever he wanted to, but I would have changed my recommendation on signing the continuing resolution.

It was not reported to me that section 107 did anything of the sort, but if I thought this provision had incorporated all of the report language, I would have changed my recommendation.

Senator DeConcini. I think what the problem really gets to is the reaction of Congress. You don't need advice from me, Mr. Miller, but when you send out a memo as you did, it seems to me that you are asking for a confrontation, and you are probably going to get it. If that is what you want, that is what Congress is likely to give you.

I don't think that that is what you want, but that is what is going to happen, in my judgment. I may be just one Senator, who is sitting here, who takes exception to not paying attention to report language and your memo, but it seems to me that when you did a memo like that, whoever did it had to think that it was going to fall into other's hands and the Congress was going to learn about it.

Mr. MILLER. We have made no attempt whatsoever to hide the fact of the memo.

Senator DECONCINI. It is quite blatant, and it is hell-bent on asking, "Come on, guys, we are going to fight with you."

Mr. MILLER. I am doing my job in protecting the President's prerogatives, and it is very important that I do so. Let's talk very bluntly.

Senator DECONCINI. Sure.

Mr. MILLER. Report language in the past has been guidance that congressional committees have used to enforce preferences that are in report language that could not stand the fresh air and sunlight of law, and to get agencies to do things.

The President and his advisors concluded we ought to make sure that people understand that the President has the discretion and report language is not binding. If you want all that in the law, you have to use the right kind of language.

Senator DECONCINI. Did you even have your legal opinion on section 107 before you recommended to the President?

Mr. MILLER. No; and Bob can respond.

Mr. Chairman, we had 12 hours to review a humongous piece of legislation. I had 300 people working for 12 hours straight before I had a final meeting with all the heads and asked for what was in there.

Since the presumption is that report language is not binding, it has not been binding before, there have been court cases to that effect, it was not reported to me that section 107 made any difference.

What Mr. Damus, I think, is saying to you is that section 107 is consistent with that.

Senator DECONCINI. Had you given advice, Mr. Damus, to the Director before he recommended to the President regarding section 107?

Mr. DAMUS. Not on the veto recommendation, sir, but I did on the question of whether or not this memo ought to be sent out was considered prior to the time that the memo was sent out.

Senator DECONCINI. Before the memo went out?

Mr. DAMUS. Yes, sir; I did edit that memo and looked it over very carefully, and I am convinced that it is consistent.

Senator DECONCINI. I will yield back to the Senator from New Mexico because he is the one who asked whether we had asked the question.

Senator DOMENICI. I think what is going to happen is precisely what the chairman indicated, Mr. Miller. I think, obviously, you have a very good point where there is inconsistent report language, I think nobody caught that as they developed this language.

If you really think that much of this report language would not be adopted by appropriators as statutory language, I really think that that is wishful thinking. They put plenty of things in the bills that couldn't see the light of day either.

Mr. Miller. But, Senator, there would be presentment to the President in that case, and there is not now.

Senator Domenici. I understand, although in this case, you really didn't even know about this provision at that point. I don't want to go into what you really recommended to the President on the full bill, we don't want to ask you that. You had very serious misgivings about the continuing resolution with or without this language, I know that.

Mr. Miller. I did. In the final analysis, as I made no particular secret about, I recommended that he sign.

Let me go back a second. What Mr. Damus is saying, and what I concur in from my review, is that it is not binding. That legal question was reviewed before the memo that I sent out was transmitted.

Second, in terms of my own review of the matter, given the 12 hours we had to review it, I asked specifically that people bring to my attention any killer amendments, anything that was quite out of the ordinary. I would say that an amendment that section 107, if you read it, is making all of the report language binding would certainly have fallen into that category as something quite different.

GENERAL SERVICES ADMINISTRATION LEASE/PURCHASE

Senator Domenici. Mr. Chairman, I just have two issues.

Last year, the President's request included language to accomplish the acquisition of the Oakland, CA, Federal Building through a lease/purchase arrangement. That request was included in the fiscal year 1988 full-year continuing resolution, using the language that you proposed.

This year, your budget indicates that the language requested last year was deficient, either the money for a lease/purchase agreement has to be provided up front, or the statutory language has to waive the Anti-Deficiency Act to allow the lease/purchase.

We didn't have that interpretation when we put the lease/purchase in for the Oakland building. Now that we have the full-year continuing resolution and we have your requested language in it, the language from last year, will you go ahead with those projects, or will you not go forward with them until the language is fixed?

Mr. Miller. We have six lease/purchase arrangements in the continuing resolution that we are going forward with.

Gerry Riso, would you respond to that?

Mr. Riso. Yes; our plan was to go ahead with the Oakland plan since there was a commitment. To avoid any question about how that building would be scored, we provided in the proposed allocation in the public building fund the full amount of the building so that people could go ahead in Oakland and make plans, and not get hung up on how that building would be scored. It is part of the six that we are committed to.

Senator DOMENICI. Let me just follow up. If the preferred and legally correct way to do the Oakland project is to provide that the $141.7 up front to be spent over the course of 30 years, I think we need to know why don't we also have to provide the estimated interest costs up front to avoid an Anti-Deficiency Act problem?

Mr. RISO. The obligation at that point would be for the building, sir. We did not think that there was a commitment on the interest if the building was acquired before the lease/purchase period expired. This was our way to cover the Federal exposure on this, and not have the project hung up on whether or not to proceed because of the scoring question. It is the amount of the building rather than future interest that might be accrued.

Senator DOMENICI. I guess what I am trying to find out is, under the 30-year arrangement, the exposure is there for the interest, yet we don't have to provide that up front under the Anti-Deficiency Act according to what you are telling us.

Mr. RISO. I hope I said that on the Oakland building, we thought that the interest exposure was the cost of construction of that building. Therefore, we would cover that. We would get to the question, when we got to specific agreements being signed and determining what the interest exposure might be.

The concern we had was whether the question of scoring could be used to prevent the planning from going forward. To avoid that, we said, let's give them the amount they need to cover the construction of the building, then we will deal, as the specific agreements are signed, with what the other exposure might be. This was our way to give them the encouragement that they needed to go forward.

Senator DOMENICI. Then, we really have to do that in two steps?

Mr. RISO. When we see the final agreement, we may.

Senator DOMENICI. I assume that nobody around here is assuming that, and that is why I raised the issue. I think they assume that you have now concurred in what was perceived to be the 30-year term, which might include interest. But you are saying, one piece at a time, and we would have to take a look at the second part, or you will.

Mr. RISO. I have not seen any final agreement on that.

Senator DECONCINI. Can you help me? If we put in the waiver of the Deficiency Act in the 1989 bill, would you then score this entire cost of the building toward this subcommittee?

Mr. RISO. There was language used in the New York buildings which avoided the potential problem that I think we do have with Oakland, not as a project, but in how you score it.

Senator DECONCINI. As it relates to the scoring?

Mr. RISO. Yes, sir; the language dealt with the question of antideficiency exposure.

Senator DECONCINI. If we use that language, the New York language, in this 1989 bill as it relates to this Oakland project, how would you score it?

Mr. Riso. It will be turned over to our attorneys who reviewed the language on the New York buildings. We will raise the same question with respect to Oakland and any other buildings as to whether or not the language had avoided the antideficiency exposure.

Senator DeConcini. What I need to know from you, if you would supply us with that answer, is how you would score it as to the deficit as it relates to this subcommittee. It would be very helpful if you could supply that to us, if we use the New York language.

OAKLAND BUILDING AND THE NEW YORK BUILDINGS LANGUAGE

If we use the New York language in this 1989 bill as it relates to this Oakland project, how would you score it?

Mr. Riso. If you use language that is similar to the language used to authorize the two buildings in New York for the Oakland project, we would send it to our attorneys for their review. If they advised us that the language exempted the project from the Anti-Deficiency Act and dictated that the obligation to be recorded for a fiscal year as a result of the transaction were to be equal to the annual payment set forth in the contract for the fiscal year for which payments were due, then, in any one year, we likely would record as an obligation in that year the annual payment.

Senator Domenici. I will submit a question on the Wilkes-Barre, PA, project, the withholding of funds for that.

SOCIAL SECURITY ADMINISTRATION BUILDING IN WILKES BARRE, PA

Mr. Miller. We, technically, have not withheld funds, Senator. I think what we have done there, we are looking for Social Security to identify precisely its needs before we go forward with the building. We have not tried to engage in some underhanded way of——

Senator Domenici. The problem we have is that we only have 6 months before the availability of funds for that project expires. What we are trying to find out is what would be wrong with GSA obligating some funds for the design or selection work, to reserve the funds until the decisions are made on this project. We just think that we need to have an answer to that.

Mr. Riso. The only question is that SSA still has not defined its requirements.

No one threatened withholding money, but when GSA, in the last day or so of Mr. Golden's tenure, decided to commit moneys, we raised the question of how are you able to commit the money in the absence of specifics from SSA on its requirements.

There was no threat to withhold money, just how can you design something in the absence of requirements. That has been the problem with Wilkes-Barre, SSA has been slow to provide to GSA its specific needs on the building.

Senator Domenici. Let me tell you, this is a tough one for us because while it is only $20 million, in this case, it is a scoring problem of serious magnitude, because if we don't do enough to go ahead and obligate it, then it is going to be deobligated.

We know we have to do it, and we are going to pick up $20 million the next year. If we have a number of these, we have to find some way to get the money scored because, in the big scheme of things, if you lose it, it is a tremendous burden on the subcommittee the next year. The rest of the government couldn't care less.

We need to fix this in some way so that we get it obligated, because everybody knows we are going to do this one. Maybe you can help us with some language.

Mr. RISO. The need will be for SSA to give to GSA its space requirements, and we will do our best to move them.

Senator DECONCINI. Can you make any commitment that you will obligate that money before it lapses?

Mr. RISO. The intent is not to force it to lapse.

Senator DECONCINI. Yes; but that is what might happen.

Mr. MILLER. Why don't we look into it and see if we can spur SSA, and then we will get back to you.

Senator DECONCINI. We are not in a confrontational mode, we need your help.

Senator DOMENICI. $1 of money would do it. If we could just get $1 obligated in some way, or $50 or something, so that we don't lose the money. We know that we are going to use it.

I have no further questions.

Senator DECONCINI. I yield to the Senator from Oregon for any questions that he might have.

REPORT LANGUAGE MEMORANDUM

Senator HATFIELD. Thank you, Mr. Chairman. I appreciate the opportunity to come and see the Director, and to welcome him. I appreciate your giving me the opportunity as an ex officio member of the subcommittee.

Senator DECONCINI. You are welcome any time, Senator Hatfield.

Senator HATFIELD. Mr. Miller, I understand that both Chairman DeConcini and Senator Domenici have raised the question with you already relating to a communication you have sent to the agencies on the subject of report language.

Mr. MILLER. Yes, sir.

Senator HATFIELD. I am only here to indicate to you that I am very hopeful this does not become an issue of confrontation. As the chairman has already indicated, that is not the intent of any member of the Appropriations Committee.

I don't think I even want to take the time at this moment to go into the detail of how you would apply this policy, whether it would be total, or selective, or partial, because report language involves administration matters and administration requests, as well as legislative interests.

I think that it has worked pretty well in the past. We have a great deal of flexibility. We reach pretty much an accord on most of those items. I think if we push this to a confrontation, we would incorporate report language into bill language.

I don't think we need to complicate the process more at a time when we are trying to control the deficit and deal with that deficit on a matter of priorities, both legislative priorities and administration priorities.

I know of nothing that could create more abrasive relationships than for this policy of repudiating report language to be pursued.

I am here only to underscore the comments of the chairman and Mr. Domenici in urging that a very careful review be made of this particular letter and what its implications are for the whole appropriations process.

Mr. MILLER. Senator, first, I appreciate your comments; second, you know how I respect your views about these matters.

I think, however, without question, the Constitution speaks very clearly on this, and for something to be a matter of law there has to be presentment to Congress. I have so frequently heard it said that something in report language was a matter of law, and that simply is not the case. There are ongoing discussions with Members of Congress.

What I have asked of members of the administration, should you plan to follow this, you let me know and let me know the reasons why. I reminded them that report language is not a matter of law, but I also emphasized in my memorandum that we cannot deobligate funds, we must follow through. We cannot violate the Impoundment Act either.

I think that what I have indicated in my memorandum is thoroughly consistent with the understanding as it has been over the years. It is just a matter of the President's reminding, through his Budget Director, agencies that report language is not law.

Let me just say again, not in a confrontational way at all, but should it result in report language guidance being incorporated in law, that is as it should be, then there would be presentment to the President and he or she would have a choice of accepting it or rejecting it. In the case of rejection, the Congress would have an opportunity to override the veto.

Senator HATFIELD. Again, Mr. Miller, I think the chairman has pointed out, as I have been informed, two provisions in the continuing resolution that spoke of report language matters as part of the law. I am not a lawyer, so I can't argue the fine points of law with you.

Mr. MILLER. Neither am I.

Senator HATFIELD. On the other hand, I think we also recognize that we can't swallow a camel at a time and strain at the gnat. I think that we have to look at this as a partnership.

I have no doubt in my mind, after checking this morning with some of the leadership on the House side, that there will be proposals made to counteract this, if it is looked upon as something that is hard and fast, as an order from the OMB to the agencies not only in matters of dealing within the continuing resolution but in the future. I just don't think that we need to get into that kind of match at this point in time. I am hopeful that we can resolve it quietly.

Mr. MILLER. Mr. Chairman, could I just indicate. We are talking about moneys that are quite substantial. We are talking about, in terms of total Federal costs, about $7 billion. We are talking about $2 billion in budget authority for fiscal year 1988. You will recall, in those budget negotiations, our spending all of one afternoon, Senator Domenici was there as well, trying to find $1 billion to save.

Let me emphasize to you, in case it is not understood generally, my suspicion is that the majority of the things earmarked in report language will be carried out, they will be done.

You know and I know that sometimes things are put in there where people can say, I had an influence, I did it, and they are going to be carried out anyway because they meet the test, but there are some things in there that might not be carried out, and the questions of whether they meet the requirements, the peer review, or whatever, those will be the determinations as to how the resources will be spent.

I have had a preliminary response from the agencies, and I can tell you that of the $2.04 billion, as of March 21, only $210.4 million had been obligated. Some had already been obligated, a little $10 million had been obligated.

Senator HATFIELD. What will happen to that money if it is not obligated?

Mr. MILLER. $210 million out of the $2 billion has been obligated for specifically those things——

Senator HATFIELD. The amount unobligated, what will you do with that money?

Mr. MILLER. You would spend it in the programs generally for which you would read the statutory language and obligate the funds accordingly. This is not meant in any way to violate the Impoundment Act, Mr. Damus would tell me that this would be wrong and I am not allowed to do that.

Senator HATFIELD. Yes.

Mr. MILLER. I would agree with that.

Senator HATFIELD. We are not reviving the Impoundment Act nor are we establishing a line item veto with this action, you are assuring us. Is that right?

Mr. MILLER. Absolutely.

Senator HATFIELD. Thank you, Mr. Chairman. I haven't gotten quite the answers I wanted.

Senator DECONCINI. I thank the Senator from Oregon.

EXPENSES OF MANAGEMENT IMPROVEMENT

Mr. Miller, according to your supplemental budget justification, OMB's budget contains another piece of funding that doesn't show up under your normal budget account. You have apparently included a second request of $2.4 million for ADP equipment and software to make up an integrated office automation system in the Office of Management and Budget.

When this item is added to your regular budget of $39,780,000, it brings total OMB requirements for 1989 up to $42,180,000. This level of funding represents an increase of $3,180,000 or 8.2 percent over 1988 levels. This represents four times the percentage increase assumed in the economic budget summit agreement.

Another $3.5 million is being requested for the financial management database project that goes beyond OMB's requirements and addresses government-wide ADP needs.

Why did you decide to spend your office automation request of $2.4 million out of your normal budget account and shouldn't we really reconsider it as part of OMB's overall request for 1989?

Mr. MILLER. Mr. Chairman, you can consider it however you like. The reasons for separating it out are that they are sort of defined blocks, part of it is not only helpful to OMB but it is helpful to agencies generally, and helpful to Congress as well.

To reemphasize, we are not asking for any real increase, no staffing increases, et cetera, and OMB is down quite substantially. We are down 12.8 percent in real budget authority from 1981 as compared to CBO which is up by 10.8 percent, and GAO which is up by 33 percent.

Senator DECONCINI. Mr. Miller, I don't question that, but if your request is $39.7 million, and you don't add $2.4 million for ADP equipment and software for your office for this year, aren't you better off to come in with $42.1 million and say, we have to have this in order to do our job, than to come in and justify that you really have not gone up anything, but in fact you have gone up 8 percent, because if we give you this supplemental, your budget is 8 percent more?

Mr. MILLER. Mr. Chairman, you can describe it however you like. I think we are very clear about what it is.

The reason we used this special fund, which was set up during the Eisenhower administration for just this sort of thing, my understanding is, we think that the program needs to be undertaken.

Senator DECONCINI. I am convinced, and I am impressed with your justification. What troubles me is the way you did it. I guess we can all paint a picture the way we want to paint it, but it seems to me that when OMB sets this example, it is an invitation for other agencies to say, look, we are not increasing our budget, but we are submitting a supplement we have to have. I would just much rather see the truth in budget requests of just putting in the $42 million and justifying it. It wouldn't be anything bad. Maybe we will give it to you, and maybe we won't.

Mr. MILLER. Again, what we have asked for, I think, speaks for itself. We were not trying to hide one thing or another. How could we possibly hide it from you when we are asking you for it.

We thought that it was appropriate, again for this account that had been developed long ago, last used in 1983, I understand, for the reform 88. In fact, there is still some budget authority left that has not been spent. If you want to know anything about the system, and why we have asked for it, we will be glad to supply that to you in writing.

Senator DECONCINI. I am told that it is a good case, and it isn't that system that I am concerned about, it is the principle here.

OFFICE OF MANAGEMENT AND BUDGET DETAILEES

I have several other questions on your particular budget. My last question will refer to section 621 of the continuing resolution which called for each executive agency detailing any personnel to another agency to report annually to this committee on the specific outline of their use of detailees. This reporting requirement was our initiative, but was triggered in large part by the very critical GAO report of July 1987, which criticized the White House for its extensive use of detailees. OMB has used detailees in the past and, I understand, still does.

How many detailees did you use at OMB in fiscal year 1987; how many are on board today?

Mr. MILLER. I don't recall what we had in 1987. We have 21 today, about 7 of them are involved in the privatization effort, 2 are on the privatization staff, and and the other 5 were detailed to the privatization effort.

Senator DECONCINI. Will you furnish us with how many you had in 1987?

Mr. MILLER. Yes, sir.

Senator DECONCINI. What steps, if any, have you taken to cut down on the use of detailees?

Mr. MILLER. I think that we have less now than we had in 1987. We will get you that report.

Senator DECONCINI. What measures are you taking, if any, to reimburse other agencies for use of detailees who are on board at OMB for more than 90 days?

Mr. MILLER. We follow the law. We will submit that to you.

OMB DETAILEES: 1987

Senator DECONCINI. How many detailees did OMB have in 1987?

Mr. MILLER. Mr. Chairman, at the end of fiscal year 1987 the Office of Management and Budget had 21 detailees on board. Over 80 percent of OMB detailees were with agency for less than 180 days. A significant portion of the detailees acquired are to assist in preparation of the President's budget, an annual requirement.

DETAILEE REIMBURSEMENT

Senator DECONCINI. How does OMB reimburse for detailees in excess of 180 days?

Mr. MILLER. The Office of Management and Budget will reimburse for detailees who remain within OMB in excess of the 180 days. When a detailee is assigned to OMB for greater than 180 days an interagency agreement between the detailing agency and OMB will be completed. Funds will be set aside to pay bills received as a result of the agreement.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. I have other questions which I will submit them, Mr. Director.

Before you leave, I want to say that working with you has been good as far as this Senator is concerned. You are upfront. There have been a number of disagreements you and I have had, and we have been able to work out some of those disagreements on drug testing, and what-have-you.

My criticism of you has been, I mean it, in the professional manner of us trying to get you to move in a direction that I think is right, it doesn't mean it is right, and it is one person's opinion. But I appreciate your office, and the working arrangement that you have had with this committee.

Mr. MILLER. Thank you, sir.

Senator DECONCINI. You have served the administration, your boss and this country well.

Mr. MILLER. That is very nice of you. Let me reciprocate, because I have always found dealing with you a pleasure and done out of mutual respect.

Senator DECONCINI. Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

SSA Building in Wilkes Barre, PA

Senator DeConcini: Mr. Miller, one of the reasons there is such a healthy distrust of your agency is because of cases like the Wilkes Barre, Pennsylvania Federal Building for the Social Security Administration.

Back in the fiscal 1987 Continuing Resolution, $20.7 million was appropriated to construct a Federal building for the Social Security Administration in Wilkes Barre, Pennsylvania. Since that time, SSA and GSA have been negotiating the actual size and scope of the building. On May 12, 1987 GSA wrote SSA and asked for complete agency requirements for the building and SSA complied. But both in August of 1987 and in March of this year, OMB intervened and directed GSA not to proceed with the Wilkes Barre project. Last year's Continuing Resolution directed GSA to expedite work on the building, but OMB has intervened and threatened to reapportion funds already appropriated and already apportioned to GSA to build the building. Quite frankly, Mr. Miller, I consider this latest OMB action to constitute a "policy deferral" that should be handled the proper way through submission of a deferral message to Congress -- not with unilateral threats to withhold funds already appropriated and apportioned.

Why are you continuing to impede the progress of this building, especially in view of the fact that the President has signed not one, but two laws that support the project?

Mr. Miller: Although the Administration opposed the construction of a building for the Social Security Administration (SSA) in Wilkes Barre, PA., the 1987 Continuing Resolution appropriated $20 million for the construction of a building.

The Administration's position is that the building should be constructed to meet SSA's special requirements. SSA's data operations center in Wilkes Barre is highly automated and has unique facilities requirements which must be considered during building design. SSA's changing data operations need to be recognized in the design to ensure that the facility will remain technologically up-to-date with SSA's modernized systems.

Over the past year, GSA has refrained from spending the $20 million because SSA has not resolved how best to meet its requirements. Last week, GSA indicated it was going to move forward and begin spending the money, without a design concept. We raised concern with GSA that it would not be prudent to begin spending money until it is determined what type of facility is needed.

Senator DeConcini: Are you aware of the fact that the funds lapse at the end of this current fiscal year and would then have to be appropriated and RESCORED AGAINST THIS SUBCOMMITTEE?

Mr. Miller: Yes, but it is not the intention of the Administration to attempt to delay this project in order to cause the funds to lapse.

Travel Cuts

Senator DeConcini: Last year, this Committee mandated virtually all of the agencies funded in this bill to take a 13% cut in travel below the President's request. We directed OMB to take a $45,000 cut in travel. The Congressional Budget resolution called for even deeper cuts in travel -- 23% to be exact. CBO, in its annual booklet on Reducing the Deficit, calls for cuts of 15% next year.

Yet in reviewing your budget justifications, it appears that you realized an increase of 30% between fiscal 1987 and 1988, and took no cut in travel in the fiscal 1988 budget. Your fiscal 1989 budget freezes travel at this year's level.

Did you take the $45,000 cut in travel that this Committee directed, and if not, why not?

What would be the effect on your operations if we were to cut travel 15% as CBO suggests, for fiscal 1989?

Mr. Miller: OMB has been fiscally prudent, especially when it comes to travel. OMB's actual expense for travel has gone from $263,000 in FY 1985 to $246,000 in FY 1987, down $17,000 or 6.5 percent. As further evidence, since fiscal year 1981, our travel expense has been reduced $184,000 or 42.8 percent. This in spite of significant increases in per diem since 1981. Mr. Chairman, a reduction of 15 percent, as suggested by CBO, on an already tight travel budget would damage the ability of this agency to carry out its mission. I feel very strongly that OMB travel is very austere. We watch our travel line item very carefully.

Sullivan County Hospital

Senator DeConcini: Another example of OMB's thumbing their nose at Congress is the case of the redesignation of the St. Louis Metropolitan Statistical Area to include a hospital in Sullivan County Missouri. This is not a big issue in the scheme of things, but it demonstrated once again how OMB tends to implement what it likes and drag its feet on matters it opposes.

In this case, Congress directed and the President approved, the redesignation of the St. Louis SMSA to include the city of Sullivan, Missouri. This would allow a certain hospital to be granted Medicare reimbursement to hospitals in Sullivan, beginning immediately in FY 1988. I understand that OMB has not notified the Health Care Financing Administration (HCFA) of this redesignation yet, so HCFA is refusing to provide Medicare reimbursement to hospitals in Sullivan, Missouri. OMB told our staff that they plan to wait until June to make this designation, and HCFA tells us that they now will wait until fiscal 1989 to begin reimbursement.

Why is OMB dragging its feet on this matter and what commitment can you make to us that this matter will be taken care of immediately -- not in June?

Mr. Miller: OMB designates changes in MSA's in June of every year. We do this by issuing a Bulletin each June announcing changes in MSA definitions that occurred within the past year. The City of Sullivan change will be announced in June 1988. The OMB Bulletin will specify that the effective date of this change is December 22, 1987, when the President signed the Continuing Resolution (P.L. 100-202).

The City of Sullivan is located in two counties in Missouri: Franklin and Crawford. The part of the City of Sullivan in Franklin County is already part of the St. Louis MSA.

You stated that the purpose of the amendment redesignating the St. Louis MSA to include the entire City of Sullivan, Missouri, was to allow a certain hospital to be granted Medicare reimbursements. In establishing the MSA criteria, OMB has been concerned that the resulting definitions should serve as wide a range of statistical needs as possible. OMB has not considered or attempted to anticipate any nonstatistical, programmatic uses that might be made of the MSA definitions, such as their use by the Health Care Financing Administration for the purpose of Medicare reimbursements to hospitals. Federal agencies that use the definitions for administrative purposes have the responsibility for ensuring that the definitions are appropriate for those purposes.

Postal Service Legislation

Senator DeConcini: Mr. Miller, ever since President Reagan took office, this Administration has attempted to zero out the major portion of the so-called revenue forgone Postal Subsidy. This year is no exception. You indicate in your Budget for fiscal 1989 that legislation will be submitted that will shift some of the subsidy burden to unsubsidized mailers and do other things to drop the fiscal 1989 subsidy requirements from $527 million, to $19 million next year.

When will your Postal Subsidy legislation be submitted and in light of almost universal opposition to this type of legislation, what realistic chance do you have of enacting such legislation this year?

Mr. Miller: Draft postal subsidy legislation implementing comprehensive reforms recommended by the Postal Rate Commission in its study of the Revenue Forgone (RF) Appropriation is scheduled to be submitted to Congress very soon.

The budget proposes eliminating virtually all RF subsidies while continuing reduced postal rates for most religious and charitable mailings. Rather than continuing to burden the taxpayers with these subsidies, the cost would be shifted to other mailers.

The Administration feels certain that there is substantial support for such reforms in this stringent budgetary climate. The American taxpayers are unintentionally and inappropriately subsidizing political advocacy mail, prestigious professional trade associations, very profitable business seminar companies, and advertisers who "piggy-back" on reduced rate mail sent by universities and other non-profit organizations.

Senator DeConcini: If the appropriate authorizing committees of Congress do not enact such legislation, will you be prepared to sign the Treasury, Postal Service appropriation bill with the full $527 million in it to cover Postal Subsidies under current law?

Mr. Miller: While it is premature for such a statement at this time, it is highly unlikely that the Administration will support a $527 million RF appropriation for 1989 which is $508 million above the President's request and is $177 million above the 1987 level of subsidization. The $527 million level even exceeds the current law level (i.e., Step 16), which has not ever been funded, by $87 million.

January, 1989 Pay Raise

Senator DeConcini: Mr. Miller, many of the Treasury bureaus that come before this Subcommittee were granted the full amount or 50% of the full amount required for the upcoming January, 1989 pay raise. I cannot find any mention of it in your budget.

Are you absorbing the cost of the January, 1989 pay raise; getting half of it; or all of it?

Mr. Miller: Mr. Chairman, as a leader in fiscal responsibility OMB will absorb the cost of the FY 1989 pay raise.

Personnel Growth Since FY 1987

Senator DeConcini: Mr. Miller, there may be an error in your justifications but I wanted to bring it up.

On page 6 of your justifications your table shows that full time permanent employment was 580 in fiscal 1987. But your object class table on page 8 shows that full time permanent employment was 478 in fiscal year 1987. If the latter is true, your permanent full time employment has jumped by more than 19% in just two years -- from 478 to 570 in fiscal 1988 and 1989.

Give us the real numbers on what has happened to OMB full time permanent employment since fiscal 1987?

Mr. Miller: Mr. Chairman, I believe the full time equivalent (FTE) employment numbers are a better gauge of OMB staffing levels. Full time permanent staff do not accurately reflect an institutions resources. For example, on September 30, 1987 OMB had 478 full time permanent staff on board. However, when temporary and part time staff are factored in, OMB had a total FTE level of 507 in FY 1987. The 570 that is shown in the budget schedules reflects the number of authorized positions, not the actual number of positions estimated to be filled on September 30, 1988.

Due to cuts in OMB budget requests over the last several years, OMB is currently operating well below its authorized levels of full time permanent (570 FTP) and full time equivalent (580 FTE). The FTE employment in FY 1988 may be somewhat higher than our FY 1987 levels of 507. However, the FY 1989 FTE employment will not exceed 1988 levels, and may be slightly less, depending upon Congressional action on OMB's requests.

Status of Drug Testing Program

Senator DeConcini: Mr. Miller, I do not need to tell you about the painful, long deliberations we had on the matter of Federal drug testing. You and the Attorney General and this Subcommittee were in the trenches for nearly two months before we reached an agreement on how that program was to proceed. My staff has had one briefing on the status of the program since last year, but I am informed that we still do not have the report from the Secretary of HHS, certifying the plans to Congress. I also have not seen any estimates of the cost of the program, by agency, as required of you under the Supplemental drug testing language of last year.

Can you give us an update on where we are with the Federal drug testing program; the certification of the agency plans; and the cost estimate of the program?

Mr. Miller: The agreement we reached on drug testing requires the Administration to fulfill certain requirements before most agencies may begin drug testing. In short, the law states that the Department of Health and Human Services (HHS) must certify each agency's drug testing plan and transmit each agency plan to Congress. HHS must also issue mandatory technical guidelines on drug testing. Finally, the Office of Management and Budget (OMB) must provide Congress with a cost analysis of each agencies' Drug-Free Workplace Program.

The certification to Congress of the drug testing plans for tier one agencies (20 of the largest Executive Branch agencies) is almost complete. All of the tier one agencies' plans have been reviewed within HHS and are awaiting the Secretary's final approval.

OMB's cost analysis of the tier one agencies' Drug-Free Workplace Programs is complete and has been provided to HHS for consolidation into their certification package. We expect HHS to transmit this information to Congress within the next few weeks.

The HHS technical guidelines on drug testing was published on April 11, 1988 in the Federal Register.

In all, we anticipate that tier one agencies will begin implementing all aspects of their Drug-Free Workplace Programs in June of this year.

Privatize the Postal Service

Senator DeConcini: Another of the Administration's major policy initiatives is to direct the Postal Service to conduct several pilot projects on the privatization of mail processing, delivery service and retail operations, among other things.

Now we all like to joke about the Postal Service, but I believe studies have shown we have the most efficient mail delivery service in the world and that Postal workers are extremely productive employees. The only thing that has hurt the Postal Service in recent years was the decision last year to jump in and disrupt their normal revenue flow by forcing them to absorb costs that were not built into their budget.

What do you really hope to achieve by raising the "red flag" about privatizing the Postal Service?

Mr. Miller: The President's budget proposes encouraging the Postal Service to implement several pilot projects to achieve the modest operating cost reductions that are required by the 1987 Reconciliation Act. The Act requires Postal Service to achieve these savings through productivity improvements, not by service cutbacks. Accordingly, the budget suggests that Postal Service permit private companies to provide certain postal services directly and to expand current efforts to contract with the private sector to supply goods and services at a lower cost.

Also, out of recognition of its size and complexity, the budget proposes a comprehensive study as a resource in determining how private sector assumption of some or all services now provided by the Postal Service could benefit the public.

Funding for the Privatization Office

Senator DeConcini: In fiscal 1987, you had no money in your budget for the so-called Privatization office. Last year you received $353,000 and next year you are asking for an increase of about 22% for this office.

How were you able to do without any separate funding for this office in Fiscal 1987 and what would be the effect on your operations if we were to force you to absorb this cost out of other programs in fiscal 1989?

Mr. Miller: As you know, Privatization has been an important initiative with the President. In late FY 1987, the Privatization Office was created and funded through reductions in other areas. These costs were absorbed within existing budget authority. The 22 percent increase you referred to is a result of funding the office at full staff for a full year. In FY 1988 the office was not staffed for the full year, we anticipate full staffing in FY 1989.

Absorbtion of the costs of the Privatization Office out of other programs would be difficult due to the fact OMB has already requested no increase in staff and absorbed the costs associated with both the FY 1988 and FY 1989 pay raises.

Limitation on Administrative Expense of the Thrift Board

Senator DeConcini: The Federal Retirement Thrift Investment Board acts in a fiduciary capacity to manage and invest the Thrift Savings Fund. Money in the Fund is contributed by and on behalf of employees. By law, money in the Fund belongs to the participants.

Congress went to great lengths in FERSA (P.L. 99-335) and subsequent legislation to exempt Board activities from political intervention. The Board is exempt from normal budgetary controls. Administrative expenses, which are borne not by the taxpayer but by the Fund, are explicitly exempt from sequestration under Gramm-Rudman-Hollings. Board members are fiduciaries who under penalty of law, must spend the sums necessary to administer the program.

Why does OMB propose a limit on administrative expenses which could prevent the fiduciaries from performing their statutory responsibilities?

Mr. Miller: The proposed limitation will not prevent the Thrift Savings Plan fiduciaries from performing their statutory responsibilities. It was Congress' intent that the Thrift Board be a Federal entity. The FERS statute explicitly establishes the Thrift Board in the Executive branch. Thrift Board members are appointed by the President, with the advice and consent of the Senate. Staff of the Thrift Board are Federal employees who carry out a Federal statute. As such, the Thrift Board is a separate entity from the Thrift Savings Fund, which the Congress and OMB have determined is non-budgetary. The fiduciary role of the Thrift Board does not supersede the Thrift Board's Federal agency responsibilities under otherwise existing law, and the Thrift Board must meet the requirements of such laws as the Budget and Accounting Act of 1921 and Title 31, as well as all other laws applicable to executive agencies, unless explicitly exempted (such as the Postal Service statute, listing statutes from which Postal is exempt). The Congress established the Thrift Board as an executive agency. The Thrift Board operates within the existing laws, not outside. The members are fiduciaries, but they act as fiduciaries within the constraints of existing laws.

As a Federal entity, and under the terms of the FERS statute (P.L. 99-335), the Thrift Board's administrative expenses are established in the Treasury and are to be derived from amounts in the Thrift Savings Fund and are appropriated for that purpose. The administrative expense funds are Federal funds.

The obligation limitation is intended to assist in ensuring that the Thrift Board administers the Thrift Savings Plan in a responsible manner, and that its administrative expenses assume the appropriated levels intended by Congress. The Thrift Board 1989 administrative expense budget proposed in the President's budget is the budget expressly proposed by the Thrift Board. The obligation limitation is intended to establish that there is financial accountability for Thrift Board administrative expenditures.

Senator DeConcini: Why, after Congress and the Administration took extraordinary steps to insulate the

Thrift Savings Plan from political pressure, would OMB propose a budgetary constraint which is clearly subject to political pressure?

Mr. Miller: The budgetary constraint is intended to ensure that there is responsibility and accountability for the administrative expenditures of a Federal entity, just as there is for any other Federal entity. The obligation limitation merely establishes a reasonable level of expenditures (one that is exactly equal to the Thrift Board's own budget proposal).

Many agencies are established in the Executive branch by Congress with various degrees of "independence" and still operate, and have for decades, under the same budget statutes. Congress could have, but did not, exempt the Thrift Board from specific Title 31 requirements. The Thrift Board is covered by those requirements under Title 31 because the requirements generally apply to all executive agencies such as the Thrift Board.

For example, Title 31, Section 102, defines "executive agency" as a "department, agency or instrumentality in the executive branch of the United States Government." The Thrift Board is clearly covered by this definition since it is explicitly stated in the Thrift Board's statute that the Board is established in the Executive Branch. Title 31, Section 1513 on apportionment states that "the President shall apportion in writing an appropriation available to an executive agency." Thus, the Thrift Board is covered by apportionment authority.

Senator DeConcini: Given the excellent rate of voluntary participation in TSP by employees during the first nine months of operation (42.8% FERS participation, $1.4 billion in assets in Thrift Savings Fund), don't you fear that insinuating political budget constraints at this time might alienate employees and reduce their voluntary participation?

Mr. Miller: To the contrary, the Administration believes that Thrift Savings Plan participants would want to be assured that there is a process for keeping the Thrift Board accountable for its administrative programs and expenditures.

Senator DeConcini: A number of controls, including fiduciary accountability patterned after ERISA, judicial remedies, fiduciary compliance reviews by the Secretary of Labor, and an annual audit are required to insure prudent expenditure of plan funds. The President, in signing P.L. 99-335, agreed to this system.

Does the Administration now feel that these controls are insufficient?

Mr. Miller: No. These controls, together with existing laws applicable to executive agencies, are not insufficient. However, we regard the proposed obligation limitation as one part of the total P.L. 99-335 construct to ensure prudent expenditure of Thrift Savings Plan funds.

Senator DeConcini: Do you have any evidence that there have been imprudent actions by the Board?

Mr. Miller: We are not aware that the Thrift Board has taken any imprudent actions. We are reviewing the process used by the Thrift Board to lease the space that it now occupies. If we receive any information that might suggest that the Thrift Board's actions in obtaining space were imprudent, we will forward that information to the Committee.

Tax Dispute Arbitration

Senator DeConcini: Mr. Miller, this Subcommittee funds the Tax Court. The President is proposing, as one of his Major Policy Initiatives, a feasibility study of the implementation of a private, expedited dispute resolution process as one way to alleviate the backlog of I.R.S. cases pending before the Tax Court. You indicate in your Major Policy Initiatives budget book (p. 89) that "in addition to reducing the backlog of cases pending and speeding up the dispute resolution process, the use of private firms would expedite the government's receipts of outstanding revenue."

When Judge Sterrett testified before us a few weeks ago, he indicated that he was not at all involved in developing this concept and did not know what the Administration had in mind. In fact, his testimony-- which I assume you cleared -- indicated that the backlogs were being reduced and turnaround time on cases was better than in prior years.

What specifically do you have in mind here; why didn't you consult the Tax Court; and what type of savings to the Treasury are you anticipating if your proposal is adopted?

Mr. Miller: The Administration believes that the Tax Court is a major bottle-neck in the collection of disputed Income Tax revenues. Currently, it takes over 24 months to resolve cases that are processed through the court. While some of this time is needed for the taxpayer and the Internal Revenue Service (IRS) to prepare their cases, the 24 month process is too time consuming. This backlog increases the cost to both the government and the taxpayer. The Administration is examining the possibility of using private dispute resolution or arbitration services to reduce some of the demands placed on the Tax Court.

The Tax Court will be consulted when a specific recommendation has been developed. At this point, Treasury and IRS are studying the feasibility of such a system. When a solid proposal is developed that provides alternative dispute resolution opportunities in addition to the Tax Court, all concerned parties will be asked for review and comment. Incidentally, since the Tax Court is part of the Legislative Branch, OMB did not review or clear Judge Sterrett's testimony.

It is impossible to estimate the cost savings resulting from the use of private arbitration services until a specific proposal has been developed. The amount of the savings will be dependant upon such factors as the extent to which private alternatives are used, what types of cases are referred to private arbiters, and whether decisions are binding.

Aerostats at Customs

Senator DeConcini: Mr. Miller, I also understand that somehow OMB is trying to slow down Customs in that agency's effort to install five more aerostats along the southwest border. I do not have all of the details but I am told that, despite the fact that the aerostats are authorized and fully funded, OMB is holding up procurement on at least one of those aerostats. Perhaps my information is incorrect but I would like to find out if anyone at OMB is in any way trying to stand in the way of any of the aerostat systems being purchased by Customs for the Southwest border, the Caribbean, or anywhere else for that matter?

Mr. Miller: OMB has not taken any actions whatsoever to delay or impede Customs efforts to procure the aerostats that have been authorized and funded by Congress. All funds were fully apportioned on December 31, 1987 and are available to Customs for obligation.

QUESTION SUBMITTED BY SENATOR JOHN C. STENNIS

FY 1988 FERS Costs

Sen. Stennis: Dr. Miller, as you know, the estimates of the contribution to the Federal Employment Retirement System (FERS) have fluctuated during the current fiscal year. I understand the need to alter your projections based on new economic changes and variations in the rate of change over to the new system.

I believe it would be of benefit to the subcommittee if you could supply us with some specific information regarding this issue. In particular, I would ask for the amount of FERS requested in the FY 1988 President's budget request by individual agency or department. Also, I would request that you provide the committee with what you believe to be the actual amount of FERS contribution, by the respective agencies and departments, for FY 1988.

Mr. Miller: The information you seek regarding the amount requested in the FY 1988 President's Budget for FERS and the actual amount of FY 1988 agency contributions to FERS by agency and department has not been collected from the agencies and is not presently available to OMB. An informal canvass of agencies indicates that many of them have this information and have already furnished this information to the appropriate subcommittees of Congress upon request. Others, such as the Department of Defense would require up to 4 weeks to compile the data and furnish it to us. Given that much of the information has already been provided by the agencies, we would suggest that the interested committees continue dealing with the various individual agencies and departments to secure this information.

OFFICE OF FEDERAL PROCUREMENT POLICY

STATEMENT OF ROBERT P. BEDELL, ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY

ACCOMPANIED BY:
DR. ALLAN BURMAN, DEPUTY ADMINISTRATOR
DAVID BAKER, ASSOCIATE ADMINISTRATOR FOR MANAGEMENT CONTROLS

BUDGET REQUEST

Senator DECONCINI. We will now turn to the Federal Procurement Office, Mr. Robert P. Bedell.

Senator DOMENICI. Mr. Chairman, I am not going to be able to stay. I will submit some questions. We will give them to your staff for submission.

Senator DECONCINI. Mr. Bedell, thank you for waiting. You have a rather lengthy statement, I notice, so if you would summarize it so we can go into questions, your full statement will appear in the record.

If you would introduce the people who have joined you, for the record, please?

Mr. BEDELL. The Office of Federal Procurement Policy's [OFPP] budget, like OMB's budget, asks for a 2.3-percent increase to take care of FERS, civilian pay raises, and inflation factors. I believe that 2.3 is the Governmentwide adjustment to be made this year, but we are not asking for any increase in any of the resources that we have.

Indeed, this committee and the Congress were very good to us last year. As you may recall, when I appeared here last year, I had just taken over the office. Its programs, its fundings, and personnel had withered some, and the committee invested about $750,000 in trying to rejuvenate that office.

We have substantially increased our activity during this past year. As I mentioned to you, the one thing I wanted to make sure that we did at OFPP was to start a regulatory and paperwork review process and program that would review every single acquisition regulation coming out of every department and agency pertaining to procurement or acquisition matters. We have done that.

We have now reviewed about 200 regulatory and paperwork issues. We have commented on about 40 percent of them, and our comments are largely adhered to in both paperwork aspects and regulatory aspects. We have told agencies not to proceed, and we have told agencies to change their regulatory procedures, and they have done so.

We have set that up and I hope that it will continue to be OFPP's primary program; that, coupled with legislative review, and providing leadership in the development of acquisition and procurement related legislative proposals, which is our other major effort.

We have reviewed about 186 legislative proposals in the past year, and we have testified about 10 different times, on almost as many different committees, on matters relating to acquisition.

PREPARED STATEMENT

This summarizes, basically, what we have been trying to do, and I will be glad to answer any questions you may have.

[The statement follows:]

STATEMENT OF ROBERT P. BEDELL

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THE SUBCOMMITTEE TO DISCUSS THE FISCAL YEAR 1989 APPROPRIATION REQUEST FOR THE OFFICE OF FEDERAL PROCUREMENT POLICY. I AM ACCOMPANIED HERE TODAY BY DR. ALLAN BURMAN, OFPP'S DEPUTY, AND MR. DAVID BAKER, MY OTHER PRINCIPAL COLLEAGUE, WHO IS THE ASSOCIATE ADMINISTRATOR FOR MANAGEMENT CONTROLS.

THE PRESIDENT HAS REQUESTED $2,353,000 FOR OFPP IN FY 1989. THIS IS AN INCREASE OF $53,000 FROM THE APPROPRIATED FY 1988 LEVEL OF $2,300,000. THE FY 1989 REQUEST, WHICH MARKS A 2.3 PERCENT INCREASE OVER THE 1988 APPROPRIATED LEVEL, SHOULD BE ADEQUATE TO COVER CIVILIAN PAY RAISES AND A SLIGHT INCREASE DUE TO INFLATION FOR OTHER SERVICES. IN "REAL" OR 1989 CONSTANT DOLLARS, THE FY 1989 REQUEST IS STILL WELL BELOW (APPROXIMATELY $1.5 MILLION) OFPP'S FUNDING LEVEL TEN YEARS AGO.

THE PRESIDENT'S REQUEST FOR 1989 DEMONSTRATES THIS ADMINISTRATION'S CONTINUING COMMITMENT TO OFPP AND TO IMPROVING THE PROCUREMENT PROCESS AS PART OF THE PRESIDENT'S OVERALL MANAGEMENT IMPROVEMENT PROGRAM. THE FUNDING REQUEST WILL ALLOW US TO MAINTAIN OUR CURRENT AUTHORIZED STAFFING LEVEL OF 32 SO THAT WE MAY VIGOROUSLY CARRY OUT OUR CHARTER AND SEE THAT THE RECENT REFORM INITIATIVES OF BOTH THE ADMINISTRATION AND CONGRESS TAKE HOLD.

THE PAST YEAR HAS BEEN A BUSY AND SUCCESSFUL ONE FOR THE OFFICE OF FEDERAL PROCUREMENT POLICY. WE HAVE ACCOMPLISHED MUCH IN OUR EFFORTS TO MAKE THE FEDERAL GOVERNMENT'S PROCUREMENT SYSTEM MORE EFFICIENT AND COST-EFFECTIVE. MY AGENDA SINCE I BECAME THE ADMINISTRATOR OF OFPP IN NOVEMBER, 1986 HAS BEEN TO STREAMLINE THE PROCUREMENT SYSTEM, TO GIVE AUTHORITY BACK TO THE CONTRACTING OFFICERS, AND TO REDUCE THE REGULATIONS, PAPERWORK, AND OTHER BURDENS THAT UNNECESSARILY CONSTRAIN THE SYSTEM. EACH OF THESE

INITIATIVES HAS ITS ORIGIN IN THE RECOMMENDATIONS OF THE PRESIDENT'S BLUE RIBBON COMMISSION ON DEFENSE MANAGEMENT, CHAIRED BY DAVID PACKARD. OUR EFFORTS THIS YEAR, AS DESCRIBED MORE FULLY IN THE PRESIDENT'S MANAGEMENT REPORT WHICH WAS SUBMITTED TO CONGRESS EARLIER THIS MONTH, HAVE RESULTED IN THE DRAFTING AND ISSUING OF MANY LEGISLATIVE PROPOSALS AND POLICY STATEMENTS, INCLUDING:

- FIVE LEGISLATIVE PROPOSALS -- THREE HAVE BEEN SUBMITTED TO CONGRESS, AND THE OTHER TWO ARE CURRENTLY IN THE FINAL OMB CLEARANCE PROCESS;

- EXECUTIVE ORDER 12615 ON THE PERFORMANCE OF COMMERCIAL ACTIVITIES;

- OMB CIRCULAR A-131 TO FOSTER GREATER USE OF VALUE ENGINEERING TECHNIQUES BY FEDERAL AGENCIES;

- TWO AMENDMENTS TO OMB CIRCULAR A-76 ON INFLATION FACTORS AND RETIREMENT COSTS; AND

- A COMPREHENSIVE POLICY ON CONTRACTOR RIGHTS TO TECHNICAL DATA, WHICH IS CURRENTLY BEING REVIEWED WITH THE AGENCIES.

WE HAVE ALSO WORKED EXTENSIVELY WITH CONGRESS ON A NUMBER OF MATTERS DURING THE PAST YEAR. I TESTIFIED BEFORE CONGRESSIONAL COMMITTEES ON SEVEN DIFFERENT OCCASIONS ON SUCH SUBJECTS AS THE BUY AMERICAN ACT, VALUE ENGINEERING, THE SMALL BUSINESS PRESERVATION ACT, CONTRACT BONDING ISSUES, AND OFPP'S REAUTHORIZATION. WE REVIEWED AND COMMENTED ON 186 PROCUREMENT OR PROCUREMENT-RELATED PIECES OF LEGISLATION. WE ALSO PROVIDED EXTENSIVE SUPPORT TO THE GENERAL ACCOUNTING OFFICE IN ITS REVIEW OF OFPP, AND ESTABLISHED A JOINT TASK FORCE WITH GAO AND THE DEFENSE DEPARTMENT TO DEVELOP A STANDARD METHODOLOGY FOR CONDUCTING STUDIES OF CONTRACTOR PROFITABILITY.

DURING LAST YEAR'S HEARING ON OFPP'S APPROPRIATIONS, I SAID THAT ONE OF MY TOP PRIORITIES WOULD BE IN THE AREA OF REGULATORY REVIEW. I AM PLEASED TO REPORT THAT IN 1987 WE ESTABLISHED AN ORGANIZATION AND PROCEDURE FOR REVIEWING ALL PROPOSED PROCUREMENT REGULATIONS AND PAPERWORK CASES. IN JUST ONE YEAR'S TIME WE REVIEWED 116 REGULATIONS AND COMMENTED OR RECOMMENDED RESCISSIONS ON 46 OF THEM (40 PERCENT). WE ALSO EXAMINED 61 PROCUREMENT-RELATED PAPERWORK CASES AND RECOMMENDED CHANGES TO 27 OF THOSE (44 PERCENT).

OFPP HAS ALSO BEEN BUSY WITH MANY OTHER INITIATIVES -- WORKING WITH OTHER GROUPS FROM BOTH THE GOVERNMENT AND THE PRIVATE SECTOR IN OUR EFFORTS TO STREAMLINE THE PROCUREMENT SYSTEM. SOME OF THESE INCLUDE:

- BRIEFING THE PRESIDENTIAL TASK FORCE ON REGULATORY RELIEF ON THREE OCCASIONS, TO APPRISE IT OF OFPP PROGRAMS AND PRIORITIES;

- BRIEFING THE PACKARD COMMISSION ON OFPP'S ACTIVITIES;

- CONVENING THREE SESSIONS OF THE 24-MEMBER FEDERAL PROCUREMENT COUNCIL TO DISCUSS PROCUREMENT LEGISLATION AND OTHER PENDING ISSUES.

- TESTIFYING ON OMB CIRCULAR A-76 BEFORE THE PRIVATIZATION COMMISSION;

- CONVENING A PUBLIC MEETING TO DISCUSS WAYS AND MEANS OF INCREASING THE NUMBER OF FEDERAL CONTRACTS AWARDED ON A COMPETITIVE BASIS;

- CO-CHAIRING WITH OMB'S FINANCIAL MANAGEMENT DIVISION (AND DoD) AN INTERAGENCY TASK GROUP ON CONTRACTOR/GRANTEE DEBARMENT AND SUSPENSION;

- CONDUCTING THE FIRST THOROUGH REVIEW OF THE FEDERAL PROCUREMENT DATA SYSTEM SINCE ITS CREATION IN 1979, AND DIRECTING A SERIES OF DATA AND FORMAT CHANGES; AND

- SUPERVISING AND MONITORING THE SUCCESSFUL TEST OF COMMERCIAL BANKCARDS BEING USED FOR GOVERNMENT SMALL PURCHASES.

ALTHOUGH WE'VE ACCOMPLISHED MUCH THIS PAST YEAR, MUCH MORE NEEDS TO BE DONE. IN ORDER TO MEET THE GOALS THAT WE HAVE ESTABLISHED FOR OURSELVES, WE ANTICIPATE ADDING AS MANY AS EIGHT MORE PROFESSIONALS TO OUR CURRENT STAFF OF 24 TO MEET OUR CURRENT CEILING OF 32 FTE. NOT ONLY WILL THIS HELP IN THE AREA OF REGULATORY REVIEW, WHERE WE WILL HAVE THE MEANS TO BE THAT MUCH MORE RIGOROUS IN OUR EXAMINATIONS, BUT THE ADDITIONAL STAFF WILL ALSO ALLOW US TO COMPLETE SOME CURRENT PROJECTS AND TAKE ON SEVERAL MORE INITIATIVES.

CURRENTLY A FEW OF OUR MORE PRESSING PROJECTS CONCERN OUR LEGISLATIVE PROPOSALS. WE ARE STILL AWAITING CONGRESSIONAL ACTION ON THREE INITIATIVES THAT WE HAVE SUBMITTED: OFPP'S REAUTHORIZATION, MULTI-YEAR PROCUREMENT AUTHORITY FOR CIVILIAN AGENCIES, AND OFPP'S AUTHORITY TO TEST INNOVATIVE PROCUREMENT METHODS. THERE ARE ALSO TWO OTHER BILLS THAT WE HOPE TO SUBMIT FOR CONGRESSIONAL CONSIDERATION VERY SOON. ONE OF THESE IS THE SINGLE, SIMPLIFIED PROCUREMENT STATUTE THAT THE PACKARD COMMISSION RECOMMENDED TO CONSOLIDATE THE SEVERAL BASIC STATUTES THAT CURRENTLY GOVERN THE PROCUREMENT PROCESS. THE OTHER WOULD ALLOW CONTRACTING OFFICERS TO USE ACCEPTED COMMERCIAL BUYING PROCEDURES TO PURCHASE COMMERCIAL-TYPE PRODUCTS AND SERVICES.

IN ADDITION TO THE ABOVE, MY PROPOSED AGENDA FOR THE FINAL YEAR OF THIS ADMINISTRATION INCLUDES:

- WORKING WITH THE FEDERAL ACQUISITION INSTITUTE, THE OFFICE OF PERSONNEL MANAGEMENT, AND THE CONGRESS TO

ESTABLISH A GOVERNMENT-WIDE PROGRAM FOR IMPROVING THE QUALITY OF THE PROCUREMENT WORKFORCE;

- CONTINUING OUR REVIEW OF THE FEDERAL ACQUISITION REGULATIONS SO AS TO ENSURE THAT THOSE RULES PROPOSED ARE CONSISTENT WITH EXISTING PROCUREMENT POLICIES AND WITH LAW. TO THE EXTENT THAT WE ARE ABLE, I WOULD ALSO LIKE TO BEGIN A THOROUGH REVIEW OF THE FEDERAL ACQUISITION REGULATION AND THE AGENCIES' SUPPLEMENTAL REGULATIONS SO THAT WE MAY RESCIND THOSE REGULATIONS WHICH ARE UNNECESSARY, DUPLICATIVE, OR OVERLY BURDENSOME; AND

- SEEING TO THE REAUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF FEDERAL PROCUREMENT POLICY.

SUMMARY

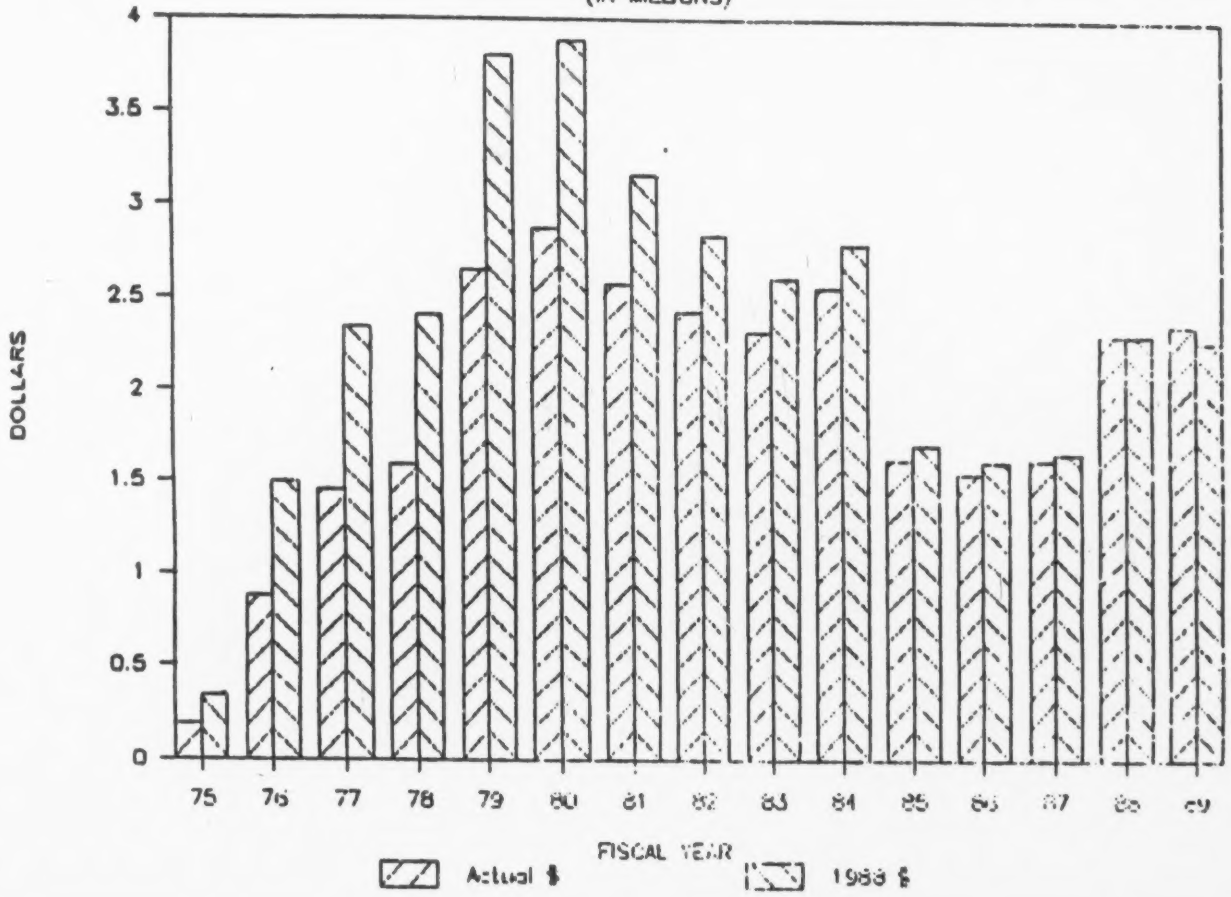
THE NEED FOR OFPP CONTINUES. THE PURPOSES FOR WHICH THE OFFICE WAS CREATED IN 1974 ARE CONTINUING RESPONSIBILITIES. OUR EFFORTS TO STREAMLINE THE ACQUISITION PROCESS -- WHICH IS RESPONSIBLE FOR THE EXPENDITURE OF OVER $200 BILLION ANNUALLY --HAVE MET WITH MUCH SUCCESS IN THE PAST, BUT THERE IS MUCH MORE TO DO.

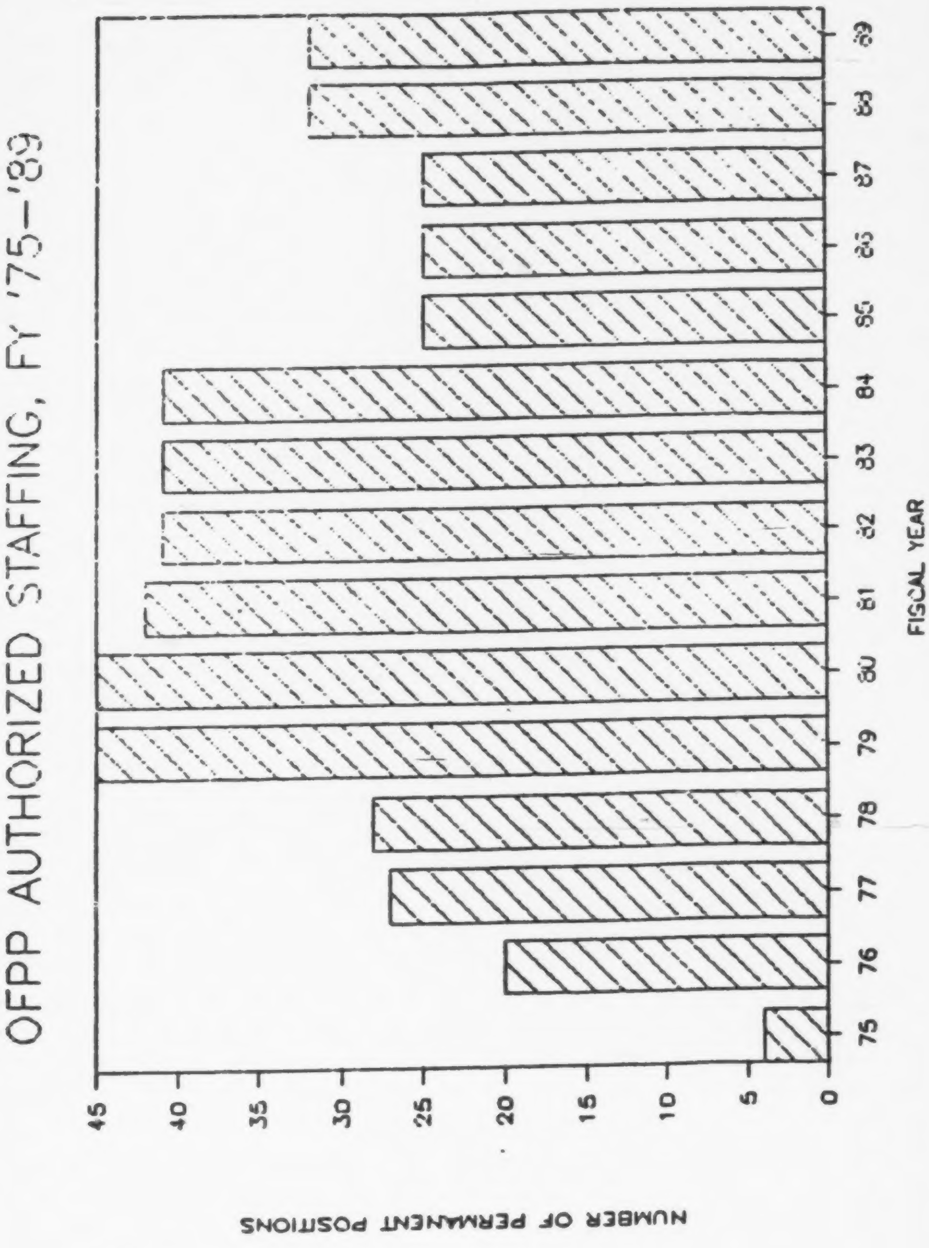
THE PROJECTS THAT WE BEGAN IN 1987 AND THOSE THAT WE PLAN TO INITIATE IN 1988 SHOULD NOT ONLY SAVE THE GOVERNMENT WORKFORCE MILLIONS OF MAN HOURS, BUT SHOULD ALSO SAVE THE GOVERNMENT CONTRACTOR A PROPORTIONATE AMOUNT OF TIME AND EFFORT AS WELL. THIS WILL MAKE IT CHEAPER FOR THE PRIVATE SECTOR TO DO BUSINESS WITH THE GOVERNMENT, AND INCREASE THE RATE OF COMPETITION FOR FEDERAL CONTRACTS.

I WOULD BE PLEASED, MR. CHAIRMAN, TO RESPOND TO QUESTIONS YOU OR THE OTHER MEMBERS OF THE SUBCOMMITTEE MAY HAVE.

OFPP APPROPRIATION COMPARISON

(IN MILLIONS)





OFPP AUTHORIZED STAFFING, FY '75–'89

TRAVEL BUDGET

Senator DECONCINI. Thank you, Mr. Bedell, I appreciate that. We have questions that we will submit to you from myself, Senator Domenici, and Senator Mikulski. I do have a couple that I would like to ask you.

The committee directed your agency to take a 13-percent cut in its fiscal 1989 travel request, and yet I note that your travel budget doubled between 1987 and 1988, and goes up again slightly next year.

Why haven't you been able to do that? What is the big demand on travel at your agency?

Mr. BEDELL. I can speak for myself. One of the things that I have been trying to do is get out to speak, meet people, and to tell them what OFPP is all about, and why it is there. One of the purposes for the office is to tell people who have to deal with procuring agencies that if they have a problem with the policies of those agencies, or of the Federal Government, in trying to be a customer to the Federal Government, they can come to us.

Senator DECONCINI. You can't do that with communications?

Mr. BEDELL. We do it in every way we can. I have given about 50 speeches this last year, some of those involved out-of-town travel.

I don't know the details of the travel budget. Do you have anything to add?

Mr. BAKER. The basic problem has been that in order to get these instructions, guidance, and policies out to the people who actually do the work in the field, and that is where the contracting officers are, we found it more efficient to do it through these personal contacts over the years. Many times, they just do not drift down through the bureaucracy or the agencies quickly enough or well enough, and that has been the basis for relying on travel.

Senator DECONCINI. When we legislate your office to take a cut in your travel budget of 13 percent, of course, we would like to see you do it. We would certainly like to tell you, as most agencies have who have not been able to comply, write us and tell us, instead of waiting to see your budget and see that it has gone up.

Mr. BEDELL. Quite frankly, I didn't know that we had not complied with that.

Senator DECONCINI. If you did that, it would help us in the future. Obviously, it would help us a great deal if you can cut it back.

Mr. BEDELL. We will do what we can to do that, and I apologize for having sent that out without advising you.

Senator DECONCINI. Fair enough.

FTS 2000

Mr. Bedell, as you know, GSA has been embroiled in a major controversial and complex procurement of FTS services for the Federal Government called FTS-2000. The procurement has been rocked by charges of insider information, biases against one contractor over another, and allegations of delay and abuse of the procurement process.

Have you taken a look at FTS–2000 and how it is being conducted at GSA? If so, give us your thoughts and recommendations, if any.

Mr. BEDELL. Yes; I have been involved. Indeed, I got involved in my prior job, which was at the Office of Information and Regulatory Affairs in the OMB. There we had general responsibility for the Government's information policy setting, dealing with ADP and telecommunications.

When we first saw what is now FTS–2000, about 3 or 4 years ago, we had substantial problems with it. We held it up and required GSA to do a variety of additional studies. They developed a new proposal. We thought that it made some sense and, indeed, approved it.

Unfortunately, what had not happened was adequate coordination, frankly, with the committees of Congress on the issue. Discussions that should have occurred much earlier in the process occurred much too late in the process, thereby changing fundamentally the approach of the FTS–2000 from a single vendor, "winner take all," approach, to really having a dual source requirement.

There is confusion about all of the trouble that GSA is having. There are really two separate contracts down at GSA. One is a $55 million contract for upgrading about 12 or 13 switches, and that is the one that has attracted all of the press turmoil, the GSBCA turmoil, and things of that nature.

Senator DECONCINI. Is that the FTS–2000, or is that diffrent?

Mr. BEDELL. No, sir; the FTS–2000 is replacing the old, antiquated telephone system that the Government has, with a new purchase, a recompeting of that, and that may cost as much as $50 billion over the next 10 or 15 years.

None of the allegations made so far that involve apparently someone giving bid information, none of the GSBCA action concerned FTS–2000. So far all of the problems have concerned the switches, and I hope that they do not go over to FTS–2000.

Senator DECONCINI. You are telling us that, from your knowledge, and is it safe to say that you have been involved or you have assessed this, that there are no accusations or problems with the FTS–2000 as of today, and that it is all relating to switching thing? That is good news.

Mr. BEDELL. It would be good news if I could tell you that, but I cannot tell you that. I have been involved in it, but I have not investigated FTS–2000 in the way that I would like to before I could make that assurance to you. What I can tell you is that most of the trouble that you have heard about, most of the problems and questions of the fairness of the bidding, concerned the switching contract, and not FTS–2000.

I do not know of any substantial allegations of problems with the FTS–2000. The problem that FTS–2000 has had is in the Congress, GSA, and the executive branch not being of one mind on the means of proceeding with the award of that contract, not allegations of fraud or criminal conduct or other inappropriate conduct.

It is a problem where the executive branch did not coordinate as it should have with the committees of Congress to make sure that we were all working together on what is a very, very important and expensive undertaking by GSA.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Thank you. We will submit the balance of the questions. Thank you very much

Thank you, gentlemen, for being with us this morning.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

Question: What is your assessment of the industrial funding initiative that we took in the Continuing Resolution and how is it working so far?

Answer: Because industrial funding requires government agencies to pay the full cost of items purchased from the General Services Administration (GSA), it will result in a more accurate reflection of product costs in agencies' budgets, and improve the operating efficiency of GSA's Federal Supply Service.

GSA's introduction of pricing changes in the middle of the fiscal year to reflect industrial funding has caused minor problems because some agencies had not anticipated having to pay the indirect as well as direct costs for GSA purchases out of their FY 1988 budgets. Those problems are temporary, however, and will be resolved with the passage of this fiscal year.

Question: What assumptions regarding the January 1988 and January 1989 pay raises are built into your fiscal 1989 budget request?

Answer: Our FY 1989 budget request includes a 2.3 percent increase ($35,000) for personnel compensation to cover the costs of the January 1988 pay raise, as well as to cover any possible within-grade step increases. We do not intend to request any increases because of a January 1989 cost of living adjustment, or any other salary increases.

Question: What will additional staff do next year?

Answer: New programs and projects for next year will depend upon the provisions included in this Office's reauthorization legislation, which is currently being considered in the Senate and the House.

We expect to use the staff in several program areas, including regulatory reform, enhancement of the procurement workforce, and implementation of the commercial activities program. With regard to regulatory reform, our priority program, we plan to establish at least one -- and possibly two -- additional teams to review paperwork requirements and regulations. By doing so, we can reduce the responsibilities of the current teams, permitting each to focus more intensively on regulations in a narrower subject area and enabling each to make more thorough analyses.

Additional resources will also permit the Office to undertake a section-by-section review of the existing Federal Acquisition Regulation, instead of looking only at new and proposed regulations.

Question: What additional initiatives do you plan to undertake in 1989?

Answer:

- Conducting a section-by-section analysis of the Federal Acquisition Regulation;
- Establishing an automated system to track agency efforts to implement the commercial activities program;
- Conducting a workload study of the Boards of Contract Appeals, and reallocating judgeship positions, as necessary, among the various agencies;
- Streamlining the regulatory development process associated with maintaining the Federal Acquisition Regulation System;
- Conducting tests of innovative procurement concepts, under authority requested by the Administration in its recent legislative proposal;
- Implementing the requirements of the OFPP reauthorization bill which, based upon current proposals, could include:
    - Establishing a cost accounting standards board;
    - Establishing a Federal Acquisition Regulatory Council to monitor, oversee and direct the maintenance of the Federal Acquisition Regulation System;

Question: What would be the effect on your operations if we were to hold you to your current staffing level of 24 for fiscal year 1989, rather than let you hit your estimated ceiling of 32 FTE?

Answer: The principal effect would be to the procurement community and the procurement agencies that procurement reform has been accomplished.

Without resources at last year's level, the Administration would be hampered in its regulatory reform effort. We could not undertake an in-depth review of existing regulations. Much of the current overregulation would continue: with all of the paperwork and other burdens that it imposes on both the public and private sectors. We also would not be able to undertake the additional initiatives we listed in answer to the previous question, and which we believe need to be addressed.

The reduction-in-force of OFPP employees would also reduce our productivity.

In summary, a great opportunity to continue modernizing and simplifying the Government's procurement process -- and making it more cost effective and efficient -- would be missed.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

Question: Are you aware of this issue [uncompensated overtime]?

Answer: Yes. The inclusion of uncompensated overtime in bids for Navy contracts was brought to OFPP's attention approximately one year ago. Since that time, we have had several meetings to discuss the issue with representatives of various agencies and departments, and with officials of private firms and industry associations. We have also received correspondence on the issue from Members of Congress, Government contractors and some contractors' employees.

Question: Are firms increasingly bidding "mandatory uncompensated overtime" to gain a cost advantage in the competitive bidding process?

Answer: OFPP does not have sufficient data to indicate whether the use of mandatory uncompensated overtime is increasing or decreasing. The only information we have received, to date, pertains to procurements within the Department of the Navy. Navy officials have indicated to us that the practice of bidding uncompensated overtime is primarily limited to Level of Effort, engineering and technical service contracts. In December 1987, the Navy estimated that 26 percent of the offerors for large engineering and technical service contracts were proposing uncompensated overtime.

Question: Do you have evidence that awards are being made to these firms over others?

Answer: The Department of the Navy has advised that contract awards have been made to firms that offer uncompensated overtime as well as to firms that do not offer it. Data analyzed by the Department of the Navy in December, 1987 indicated that uncompensated overtime was being proposed on about 37 percent of the hours being contracted for under engineering and technical service type contracts.

Question: Do you think this situation needs to be rectified?

Answer: Yes. It should be rectified, but we are not certain what specific corrective actions should be taken. We are currently reviewing the report required by the Senate Appropriations Committee in its December 4, 1987 Report on the 1988 Department of Defense Appropriation Bill, Report 100-235, pg. 101. This report was submitted to the Committee on April 15, 1988. We also plan to review the testimony presented at the April 13 and 14 hearings on Senate bill S. 2254. These hearings were held by the Senate Armed Services Subcommittee on Defense Industry and Technology. More data are needed before any specific policy change can be developed.

Question: Would you agree with the solution that the 40-hour standard be used as the basis for evaluating the cost of all proposals and bids?

Answer: Not at the present time. We are not certain of the total ramifications associated with the "40-hour standard". We are, of course, reluctant to take any action that would prevent or disincentivize employees from working overtime. While the use of the 40-hour week as an evaluation standard, would not, per se, prevent contractor personnel from working overtime it would send a message that could discourage overtime. At this time, we believe that the best solution to the problem of uncompensated overtime is to stress the realism of a contractor's total compensation package (including weekly hours proposed to be worked) in making contract award decisions. This approach results in a more equitable treatment of total professional compensation and would not result in Government interference in the employer-employee relationship.

Question: How many regulations did you recommend be rescinded? How many of these were actually rescinded?

Answer: We have requested that five of the 116 regulations be rescinded or withdrawn. Of these, one -- a Defense Department regulation relating to the retainage by the Government of construction contracts payments -- has yet to be rescinded. We are preparing the necessary documentation now to rescind that regulation.

Question: How many of your recommended changes to paperwork cases have been implemented?

Answer: Virtually all of the recommendations we made with respect to paperwork have been implemented or are under consideration by the sponsoring agency.

Question: Do these changes require only Executive Branch action?

Answer: Yes. All of the changes we have requested are restricted to actions by the Executive Branch.

Question: How many procurement regulations and paperwork cases have not yet been reviewed by your office?

Answer: As of March 25, 1988, we have a total of 39 cases on hand to be reviewed. This number has not varied greatly for the past several months, and reflects our normal workload. It is not a backlog.

Question: What is your current staffing level? When do you expect to be staffed at the 32 full-time equivalent position level funded for Fiscal Year 1988?

Answer: Our current level of staffing is 24, of whom 5 are support staff. This number compares to a total staff of 13 less than two years ago. We are currently recruiting to fill several positions and hope to be at or near the staffing level of 32 by the end of the current fiscal year. We have proceeded very deliberately in this process -- and hope to continue in that vein -- so that we can identify and employ the ablest individuals available.

Question: Since the inception of the Reagan Administration, would you please describe to us briefly the accomplishments of the Office of Federal Procurement Policy in each of the following areas: (1) streamlining the procurement system; (2) returning authority to contracting officers; and (3) reducing unnecessary regulations and paperwork?

Answer: Our major accomplishments in the three areas cited are, as follows:

(1) Streamlining the Procurement System

o Development of the Uniform Federal Procurement System proposal, which the Administration submitted to the Congress in 1982. This proposal contained a series of streamlining initiatives, most of which were subsequently issued in Executive Order 12351, or enacted in the Competition in Contracting Act of 1984. Those initiatives include:

- Establishing a single executive -- the Procurement Executive -- in each agency to manage the agency's procurement programs.
- Requiring establishment of a series of performance standards for the operation of each agency's procurement system, and requiring the certification of those systems as meeting the standards;
- Implementing a single, Government-wide Federal Acquisition Regulation System to take the place of the three major regulatory systems that previously existed;
- Creating Competition Advocates in each agency (and major procurement activity) to foster the use of full and open competitive acquisition techniques; and
- Reducing the number of acceptable rationales an agency could employ to justify noncompetitive awards.

o Development of a single, simplified procurement statute to replace the major procurement statutes that currently exist, as well as many of the 4,000 other provisions of law that affect procurement. That statute has been drafted by this office and is in final coordination with the agencies.

o Development of streamlined procurement techniques. One proposal, called the Simplified Competitive Acquisition Technique was submitted to the Congress in 1985; while an expanded and enhanced version has been prepared and will be submitted shortly for Congressional action.

- Other Streamlining Actions. These include:

  - Successfully testing the use of commercial bankcards for small purchases (up to $2,500);

  - Issuing new policies to foster better procurement planning, simplify debarment and suspension procedures, and acquire architect-engineering services.

(2) Returning Authority to Contracting Officers Because this area of needed reform was only identified by the Packard Commission in 1986, our efforts in this regard are just beginning. One of the fundamental purposes of our regulatory review program, however, has been to identify those regulations that tend to undercut the role of the contracting officer. A recent regulatory proposal of the Department of Education, for example, would have transferred certain functions of the contracting officer, as defined in the Federal Acquisition Regulation, to other departmental employees. We challenged this proposal, and the Department is reconsidering its proposed rule.

(3) Reducing Unnecessary Regulations and Paperwork Our principal achievement in this regard has been to establish a comprehensive program to review all proposed and final procurement regulations, as well as paperwork clearance actions. The specific results of that effort to date are provided in our answer to Question 2, above. In addition to the review we are conducting of proposed and final rules, we have requested all executive agencies to review their existing procurement regulations and eliminate those that are unnecessary or redundant. We believe, based upon findings of the Defense Department's Inspector General, that as many as 40 percent of such rules may be unnecessary.

Question: In this time, how many recommendations have been made by your office, and how many of those have been implemented?

Answer: We have not maintained a record of the number of recommendations we have made to the agencies since 1981, and of the number of recommendations that have been implemented. Literally hundreds of improvements have been identified by this office, however, and the great majority of them have, we believe, been implemented by the agencies. In 1984, for example, we made 24 recommendations to the Department of Defense for improving spare parts procurement practices. Most, if not all, those recommendations were subsequently implemented. Our recent experience with regulatory review program continues to bear out that record. Agencies have been very receptive to our requests for change, and have either accepted them or currently have them under review.

Question: What savings to the Government have resulted from implementation of these recommendations?

Answer: We do not have data to indicate the amount of savings that has accrued as a result of our efforts to improve the Federal Government's procurement processes during the past seven years. The number of OFPP recommendations for change, the magnitude of the Federal procurement program, and the number of Federal buying activities make the development of a data system to track such savings prohibitively expensive. Moreover, due to the collegial nature of the procurement reform effort and the number of institutions involved in overseeing or conducting procurement programs -- from the Congress to the individual small buying office -- it is nearly impossible to trace a particular reform solely to an OFPP initiative. Nevertheless, we believe the magnitude of savings resulting in whole, or in part, from OFPP initiatives is sizeable, based upon the following single example:

> The Federal Government has increased the number of contract dollars awarded competitively by 41 percent since 1981. We believe that much of the impulse for that increase in competition can be traced to the Uniform Federal Procurement System proposal prepared by OFPP in 1982, and the resulting Competition in Contracting Act of 1984. Previous studies have suggested that competition, on average, will result in a 30 percent reduction in contract price. If so -- and based upon the 1987 procurement budget of $200 billion -- we estimate that the Federal Government saved approximately $ 4.3 billion due to increased competition in 1987, alone.

Question: How are those savings determined?

Answer: As explained in answer to Question 6, we are unable to specifically determine monetary or other savings resulting from OFPP's activities during the past seven years.

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

Question: In a keenly competitive environment, does OFPP believe this (the Navy practice) does not create an incentive to offer uncompensated overtime so as to appear more competitive?

Answer: No. We believe the acceptance of a proposal that offers uncompensated overtime encourages its use. The more difficult question, however, is whether such acceptance is ultimately in the Government's best interest? There is no general agreement on this latter question.

Question: At what point does the uncompensated overtime level of effort offered in a contract constitute a violation of OMB's Policy Letter 78-2 (etc.)?

Answer: At the point, when in the opinion of the contracting officer, the offeror's total compensation package becomes "unrealistic" and the contractor would not be able to recruit and retain the quality of work force necessary to productively perform under the contract. This is a subjective determination and it is based on the "realism" of each offeror's "total compensation package".

Question: Does OFPP believe the Government's policy which accepts uncompensated overtime has the ability to apply the breaks on an upward spiral of overtime hours offered in severely competitive environments to avoid wage busting?

Answer: Yes. We have not been advised of any widespread tendency for contracting officers to accept unrealistically priced proposals. Accordingly, it appears that most contracting officers are making appropriate determinations regarding the "realism" of the proposals.

Question: Is it prudent public policy and in the Government's best interest to allow "uncompensated overtime" in the procurement of services?

Answer: It is our general view that the Federal Government should not engage in regulating employment standards and conditions for professional employees of Government contractors. The establishment of wages, hours of employment, fringe benefits and other working conditions for professionals in private sector firms and establishments are -- and traditionally have been -- matters of private agreement between the firms and their professional employees. Further involvement of the Federal Government in this relationship would, as a practical matter, present technical, legal and administrative difficulties. It is difficult to see how the reasons for further Federal involvement; e.g., by directing the elimination of uncompensated overtime, can be met with certainty without regulating virtually all other aspects of the employment relationship.

Question: Does the OFPP believe that Government can effectively enforce an offer to provide an amount of hours which exceed 40 hours per week on a regular basis?

Answer: Yes. However, the enforcement of working hours is essentially the contractor's responsibility and not the Government's. The contractor's employees are not under the Government's direct supervision or control. The Government's contract administration function would be responsible for determining that the "hours billed" were being "productively worked". If the hours were not worked, they should not be paid.

Question: Does this policy invite fraud and inefficiency of workers who are required to work longer than professional Civil Service counterparts and colleagues who work in the private sector?

Answer: OFPP does not have any data to suggest that "uncompensated overtime" invites fraud and inefficiency.

Question: Is the Navy's policy which permits "uncompensated overtime" consistent with the provisions of FAR 22.1103?

Answer: The Navy's policy permitting uncompensated overtime is not inconsistent with FAR 22.1103. FAR 22.1103 essentially requires contracting officers to review an offeror's "total compensation package". Compliance with FAR 22.1103 is maintained as long as this review is made and "unreasonable packages" are not accepted.

Question: How is quality procurement achieved by a policy which encourages less cost and longer hours?

Answer: Generally, the Government endeavors to obtain a specified quality of performance at the lowest reasonable cost. While pay and working hours have a direct influence on this objective, the key to a good procurement is to avoid overpaying or underpaying for the quality of service required. In most instances, we rely on market forces to determine the appropriate compensation level for the quality of service required. Contracting officers, in addition, are responsible for reviewing the "realism" of all proposals. If an offeror's proposal is not "reasonable" with regard to the level of compensation necessary to obtain the specified quality of work, the proposal should be rejected.

Question: How many hours in excess of the standard 40-hour work week does the OFPP consider to be "unrealistic" for engineers?

Answer: OFPP does not have data regarding the average work week of Government or private sector engineers. In general, however, work weeks under Government contracts should coincide with work weeks for comparable private sector programs. Sharp variances to either increase or decrease work weeks under Government contracts must be carefully evaluated. Proposals that are not realistic in terms of customary and standard practices should, in many instances, be rejected.

Question: What objection does the OFPP have to a policy which requires all procurement for professional and technical services to be evaluated on the basis of a standard work week?

Answer: We are not certain of the total ramifications associated with the "40-hour standard". We are, of course, reluctant to take any action that would prevent or disincentivize employees from working overtime. While the use of the 40-hour week as an evaluation standard, would not, per se, prevent contractor personnel from working overtime, it would send a message that could discourage overtime. At this time, we believe that the best solution to the problem of uncompensated overtime is to stress the realism of a contractor's total compensation package (including weekly hours proposed to be worked) in making contract award decisions. This approach results in a more equitable treatment of total professional compensation and would not result in Government interference in the employer-employee relationship.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess until Friday, April 15, at 9:30 a.m., in this room, when we will receive testimony from the General Services Administration, and the remaining offices and programs within the Executive Office of the President.

[Whereupon, at 11:11 a.m., Monday, March 28, the subcommittee was recessed, to reconvene at 9:30 a.m., Friday, April 15.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1989

FRIDAY, APRIL 15, 1988

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Mikulski, Domenici, and D'Amato.

GENERAL SERVICES ADMINISTRATION

STATEMENT OF RAYMOND A. FONTAINE, COMPTROLLER

ACCOMPANIED BY:
- WILLIAM B. EARLY, JR., DEPUTY COMPTROLLER FOR BUDGET
- CLYDE C. PEARCE, JR., GENERAL COUNSEL
- DUNCAN LENT HOWARD, COMMISSIONER, PUBLIC BUILDINGS SERVICE
- DONALD C.J. GRAY, COMMISSIONER, FEDERAL SUPPLY SERVICE
- FRANK J. CARR, COMMISSIONER, INFORMATION RESOURCES MANAGEMENT SERVICE
- EARL E. JONES, COMMISSIONER, FEDERAL PROPERTY RESOURCES SERVICE
- WILLIAM R. BARTON, INSPECTOR GENERAL

OPENING REMARKS

Senator DECONCINI. The subcommittee will come to order.

The Subcommittee on Treasury, Postal Service is meeting to receive testimony from the General Services Administration and the remainder of the executive offices of the President's agencies that fall under our jurisdiction. Those agencies, of course, will be discussing their fiscal year 1989 budget requests and responding to questions.

Senator Domenici, the ranking member, will be here a little bit later due to an important meeting with somebody in the executive.

The first witness will be Mr. Fontaine, who will be presenting the testimony of the General Services Administration. As we all know, Mr.

Terence Golden resigned as Administrator of GSA last month, and his successor has not yet been formally approved.

Mr. Fontaine, you have been around here a long time, you know more about this than I do. We welcome you here.

I want to say for the record that I thought Mr. Golden handled himself exceptionally well. Certainly with his response to the Hill, it was very, very rewarding to work with him. I know that you and some of the folks who have been there a long time had a lot to do with that. We will miss him, and we wish him well in his new venture and a little bit of a sabbatical, I understand.

Mr. Fontaine, if you would introduce all of your people for the record here, and then summarize your statement, your full statement will be placed in the record.

INTRODUCTION OF ASSOCIATES

Mr. FONTAINE. Thank you very much, Mr. Chairman.

I would like to introduce my colleagues. This is Duncan Howard, the Commissioner of the Public Buildings Service; Earl Jones, the Commissioner of the Federal Property Resources Service; Frank Carr, the Commissioner of Information Resources Management Service; Don Gray, the Commissioner of the Federal Supply Service; Bill Barton, our inspector general; and Bill Early, the Deputy Comptroller for Budget.

Mr. Chairman, I would like to submit a formal statement for the record and just briefly summarize, I know that you are pressed for time, and then we can get into the questions.

Our 1989 request is basically a hold-the-line budget, no major increases in any of the appropriations. There is a small increase in obligational authority for the Federal buildings fund. Employment remains basically stable.

PREPARED STATEMENTS

This is basically just a recap and we can proceed with the questions, if that is satisfactory to you, sir.

[The statements follow:]

STATEMENT OF RAYMOND A. FONTAINE

I am pleased to appear before you today in support of the fiscal year 1989 budget request for the General Services Administration (GSA).

GSA is the Federal Government's administrative policy unit, performing a variety of regulatory, management, and support functions. It helps manage and oversee Federal real property, ADP, and telecommunications programs, helps set acquisition policy, and centrally provides goods and services to departments and agencies when this has quality or cost advantages. GSA is also responsible for the disposal of surplus Federal property.

To put GSA's budget in perspective, obligations in the budget year will total almost $8.3 billion. Most of this, however, is funded by our customers through direct reimbursement, by rental payments for the space they occupy, or by payments to revolving funds for purchased goods and services. Only a small part of our financing, less than 4 percent, comes from direct appropriations. GSA's gross budget authority is also largely offset by the receipts and collections we generate.

In terms of employment, GSA continues to do more with less. Average employment budgeted for 1989 is 20,135, or 916 fewer than in 1988. The reduction will be achieved through operational streamlining, efficiencies, and expanded use of the private sector. When more than 1,400 additional positions are later transferred to other agencies under the buildings delegation program, our 1989 workforce will be 27 percent below what it was in fiscal year 1985.

I would now like to highlight the major features of our proposed appropriations for fiscal year 1989. Excluding amounts realized under permanent authority, we are requesting $299.4 million from this Subcommittee. This is $46 million less than was appropriated in fiscal year 1987, and only $33.6 million more than was enacted for 1988. It provides for a few selected initiatives, while retaining ongoing effort at or below prior levels.

The largest budget initiative is an additional $45 million to relocate agencies from underutilized to more suitable sites. This incentive will allow the sale of valuable excess properties, resulting in increased Government revenues. We have been working closely with agencies to identify target properties, and there are sufficient candidates to fully use the budgeted $50 million.

Under the Information Resources Management Service, an increase of $5.2 million is budgeted for site preparation costs associated with recompetition of GSA's shared data processing equipment and data communications network. Much of the hardware that will be replaced supports Federal Supply Service operations.

Since fiscal year 1989 is an election year, $3 million is budgeted for the expenses of a presidential transition; under current law, $2 million is for the incoming administration, and $1 million for the outgoing. A modest increase is also provided for the Office of Inspector General, to support long-term information processing and applied technology needs. Lastly, there will be a slight increase in requirements for allowances and office staff for a new former President.

There is a $22 million decrease in fiscal year 1989 operating expenses due to full-year industrial funding for the Federal Supply Service (FSS). As authorized by Congress in the fiscal year 1988 continuing resolution, agencies will now pay the full cost of their supplies, rather than having part of the cost subsidized by GSA appropriations. Other FSS operations that continue to be funded under direct appropriations include property management and disposal, schedules contracting, certain transportation activities, and general policy and regulatory functions.

Apart from the specific changes just noted, requested appropriations for GSA's operating programs increase by less than one percent in fiscal year 1989. This will require continuing efforts to streamline operations and achieve savings just to offset the impact of inflation and enacted pay raises.

Under the Federal Buildings Fund, the fiscal year 1989 budget request is for $3,182.7 million in new obligational authority (NOA), or authority to spend the Fund's income. This is $328.6 million above the level enacted for fiscal year 1988, and will allow GSA to continue to provide real property services at current levels while meeting the most critical requirements for facility repairs and alterations.

$233.8 million is budgeted for the construction and acquisition of facilities, an increase of $118.8 million above fiscal year 1988. This includes $141.7 million for the installment purchase of a building in Oakland, California. The city of Oakland has agreed to donate the land, erect a facility on the site, and sell it to the Government over a 30-year period; at the end of the contract, the Federal Government will own the facility. Other budgeted construction projects are principally directed to meeting critical requirements of the U.S. Courts.

The fiscal year 1989 budget for repairs and alterations is $538.3 million, an increase of $65.3 million over fiscal year 1988 NOA. Substantial increases are planned to address the critical backlog of needed repairs, particularly those related to the health and safety of Federal employees. Other projects are for modernizing existing facilities in the inventory, and for recapturing vacant space for use instead of more costly leasing.

Proposed fiscal year 1989 funding for other activities of the Federal Buildings Fund includes $136.7 million for design and construction services associated with current and planned construction and repairs and alterations projects. $1.2 billion is for the rental of space, where roll-over of long-term leases has resulted in escalating costs. $142.4 million is budgeted for purchase contract payments, to meet obligations incurred in prior years. $881.7 million for the real property operations activity supports the costs of maintaining, operating, and protecting facilities; much of the $76.3 million increase above 1988 reflects increased costs of goods and services and the way that delegated workload is budgeted. Last, $49.7 million under the program direction activity supports overall management of the program and a number of support functions.

As a final item, the Administration's fiscal year 1989 budget assumes that GSA will generate $225 million in receipts from the disposal of surplus real property. We must have congressional support, however, to achieve this challenging goal. Your approval of the $50 million request for agency relocation is a major step, but equally important is the need to overcome attempts by special interests to prevent the relocation of agencies and disposal of properties.

Mr. Chairman, this concludes my brief summary of our budget request. I will be pleased to answer any questions that the Subcommittee may have.

STATEMENT OF DUNCAN LENT HOWARD

Mr. Chairman, Members of the Subcommittee, it is a pleasure for me to appear before you today to discuss the Fiscal Year 1989 budget for the Public Buildings Service.

The budget that we have submitted reflects the continuation of many of the initiatives that the Congress has previously endorsed. Major among these are providing a safe and healthy work environment for Federal employees; recapture of vacant space through the repairs and alterations program; providing quality workspace at reduced utilization rates; modernization of our inventory to protect these valuable assets and meet our tenants' technological needs; consolidation of major agencies' functions where the consolidation is cost effective to the government and results in management improvements and efficiencies; delegation of operational and lease management authority to agencies in single-tenant buildings; and meeting the critical space requirements of the U. S. Courts.

We look forward to working with the Subcommittee and its staff in making continued progress on these initiatives to improve Federal real property management.

I would now like to summarize our fiscal year 1989 budget request.

We are requesting $3.2 billion in new obligational authority for the Federal Buildings Fund.

Our capital budget request includes $141.7 million for the installment purchase of a building in Oakland, California which is required to comply with the requirements of the Anti-Deficiency Act and, in addition, $92 million for other planned new construction, primarily devoted to the space needs of the U. S. Courts. This includes the construction of four Courthouse Annexes and two small Federal Building-Courthouses.

We are continuing to work with the Subcommittees and with other concerned federal agencies to accomplish needed U.S./Mexico border station projects, for which $28.7 million was authorized in the Fiscal Year 1988 Continuing Resolution.

The largest part of our Fiscal Year 1989 capital program is devoted to the Repairs and Alterations activity. Our request of $538.3 million will allow us to proceed with the non-prospectus level work necessary for routine upkeep of our buildings and preparation of space for new tenants, and will also fund 60 prospectus level projects.

We are also requesting $136.7 million in the Design and Construction Services activity. $12.9 million of this amount is for the design of 18 prospectus level projects that will be constructed in future years.

In addition to the standard inflationary increases, our request for the Real Property Operations activity includes funding increases for operation, maintenance and protection of new space entering the inventory, primarily those buildings acquired under the Buildings Purchase program. There is also an increase of $27.7 million for buildings restored to the Federal Buildings Fund budget which were funded in agency budgets under early "pilot" delegation agreements. In the future, GSA will budget for all delegated buildings within the Federal Buildings Fund.

The Fiscal Year 1989 Rental of Space activity provides for a basically stable leased space inventory of 93 million square feet, where projected agency expansion requirements of 4.0 million square feet are nearly offset by 3.2 million square feet of projected cancellations.

In the area of employment, our Fiscal Year 1989 budget includes 9,878 workyears, a net decrease of 746 workyears from Fiscal Year 1988. The projected decreases in staffing are due to improved work methods and continued contracting out under OMB Circular A-76.

I feel that this is a sound budget that effectively uses the resources available to the Public Buildings Service to continue progress on our major initiatives of reducing dependence on costly leased space, maximizing utilization of our existing inventory, and providing a healthy, safe and quality work environment for Federal employees.

Mr. Chairman, this concludes my statement on our FY 1989 request. I will be glad to answer any questions that the Subcommittee may have.

STATEMENT OF DONALD C.J. GRAY

I appreciate the opportunity to meet the Subcommittee to discuss our fiscal year 1989 budget request.

The Federal Supply Service (FSS) provides and supports for the benefit of Federal agencies and other authorized users a worldwide logistics supply system to contract for and distribute supplies and personal property to Federal agencies and other authorized users; a transportation and travel management services and regulations program which includes transportation audits and the Federal fleet management system; and a Governmentwide program for utilization, donation and sales of excess and surplus personal property.

In fiscal year 1987, FSS proposed legislation to authorize full cost recovery for all management, operations and overhead expenses of FSS to be financed through the prices and revenues derived from the provision of goods and services to the agencies. GSA was previously permitted to charge only for its cost of goods while all direct and indirect costs were funded through appropriation.

The Continuing Resolution of December, 1987, authorized full cost recovery for the supply operations programs of FSS. Under full cost recovery, all elements of cost both direct and indirect will be paid entirely from income received into the General Supply Fund.

With this legislation GSA will stake the future of FSS on its ability to control costs and remain competitive with other sources of supply. With this legislation we are evidencing our willingness to compete with alternative supply sources on a total cost basis.

Our 1989 budget request for new direct appropriations is $47,829,000, a net decrease of $21,771,000 over the comparable 1988 program. A decrease of $22,301,000 reflects two months of OE, Direct costs in fiscal year 1988 for the supply operation program versus full year industrial funding fiscal year 1989. A $530,000 increase is provided for the 2% pay raise.

The General Supply Fund includes the fleet management operation at a requested level of $427,800,000 and the supply operation program at a requested level of $2,244,900,000, which reflects operating expenses previously covered by appropriation.

The 1989 budget for FSS reflects continued efforts to pursue three major goals:

- Streamlining and modernizing operations to maximize tax dollar savings.
- Providing only services and commodities where there is a significant economy or quality advantage to having FSS provide the service or commodity.
- Improving the quality and or safety of goods and services provided by FSS.

Mr. Chairman, this concludes my statement. I will be glad to answer any questions you or other members may have.

STATEMENT OF FRANK J. CARR

Mr. Chairman, I appreciate this opportunity to present the FY 1989 budget request for GSA's Information Resources Management Service (IRMS) before this subcommittee.

We in GSA's Information Resources Management Service are responsible for insuring that the management, procurement, and utilization of Information Resources by Federal agencies is accomplished in the most efficient and cost effective manner.

We are currently involved in several major projects in carrying out our responsibilities. In FY 1986 we began our "Go for 12" project with the cooperation and participation of four other Government agencies (Agriculture, HHS, Navy and NASA). This is a major effort at improving ADP and telecommunications equipment and systems acquisition. The goal is to develop procedures for completing these acquisitions within a 12 month period after initiation. One part of this project is the "Trail Boss" program which is designed to provide specialized training in ADP and telecommunications acquisitions. We have just completed our first "Trail Boss" training course for 35 senior agency IRM officials. The course lasted two weeks and was designed to take managers step by step through a major acquisition process.

Our Washington Interagency Telecommunications System (WITS) will be competitively procured and will replace the current sole source local service telephone system for Federal Agencies in the Washington D.C. metropolitan area. The new system will provide modern local voice and data communications services.

The Aggregated Switch Procurement (ASP) program consolidates a number of regional telecommunications systems replacements into aggregate procurement actions in order to accelerate the process and reduce costs. This encompasses over 400 systems across the nation in several planned ASP's, which will provide modern local voice and data communications services.

On January 28, 1988, we released our amended request for proposals to the telecommunications industry for FTS 2000. This will be the Government's new long distance telephone service replacing the current intercity portion of the Federal Telecommunications System. It will provide new advanced telecommunications services to Federal agencies while saving the Government more than $100 million per year.

Our request for Budget Authority for Operating Expenses, IRMS, is $36,835,000 for Fiscal Year 1989. This is an increase of $5,642,000 from our authorized level for FY 1988. This amount includes the following changes:

+$5,150,000	Recompetition of ADP equipment and data communications network
+$409,000	Payment to the National Communications System.
+$101,000	Growth in Information Security Oversight activities.
+$352,000	Pay Act costs
-$370,000	Other Changes

We are requesting no increase in Budget Authority for the Information Technology Fund. We will be happy to answer any questions you may have on our budget requests.

STATEMENT OF EARL E. JONES

I am pleased to be here today to discuss with you the Federal Property Resources Service (FPRS) budget request for fiscal year 1989.

The Federal Property Resources Service promotes the maximum utilization of real property by Federal agencies and minimizes new procurements of real property by transferring available excess property among agencies. We provide Government-wide policy, oversight and guidance for Federal real property management, and develop legislative initiatives that seek to improve such management. We also provide for the economic and efficient disposal of surplus real property by sale, exchange, lease, permit, assignment, or transfer for both private and public purpose.

Our basic Operating Expenses appropriation request of $12,109,000 for fiscal year 1989 is for the Office of Real Estate Policy and Sales. This request represents an increase of $109,000 over our enacted 1988 appropriation. We are also requesting an appropriation of $50,000,000 for Real Property Relocation expenses. This appropriation covers relocation costs involved in moving agencies from valuable, underutilized property, targeted for public sale, to facilities determined to be more economically suitable to their needs.

We greatly appreciate receiving funds for this new appropriation in fiscal year 1988 and we are working on some success stories which we believe will justify the additional funds we are requesting in 1989, and which will demonstrate the high returns which can be achieved through increasing the Government's investment.

The most significant change in our budget occurred when the operating management of the National Defense Stockpile was transferred to the Secretary of Defense. As a result, the 1989 budget request for the National Defense Stockpile Transaction Fund, the William Langer Jewel Bearing Plant Revolving Fund and the attendant expenses of Stockpile operation, are presented in the Department of Defense sections of the 1989 Budget.

Mr. Chairman, the FPRS program for 1989 is consistent with our efforts and successes in continuing to improve real property asset management in the Federal Government. I thank you for the opportunity to make these remarks. I will be glad to answer any questions you or the Committee may have.

STATEMENT OF RAYMOND A. FONTAINE

Before responding to your specific questions, I would like to briefly summarize the General Services Administration's 1989 request for agencywide activities funded by the Salaries and Expenses, General Management and Administration account.

The General Management and Administration (GM&A) appropriation provides for planning, policy direction, coordination, centralized administration, and staff support for all GSA programs, many of which are Governmentwide in scope. For 1989, we are requesting an appropriation of $122.8 million, $274 thousand over comparable 1988 levels.

This net change consists of increases of $54 thousand and one workyear to support the Interagency Committee for Computer Support of Handicapped Employees; $128 thousand for ADP Technical Support and $650 thousand for the replacement of a computer system. These increases are partially offset by a decrease of $558 thousand and 24 workyears applicable to a general reduction in staffing.

Other FY 1989 cost increases are being absorbed from within the FY 1988 current resource level which includes funding for the Cooperative Administrative Support Unit (CASU) program; general cost increases provided by OMB's current price deflator; increase for the revised Federal Employees Retirement System; annualization of the FY 1988 and the FY 1989 pay raises; and RENT increases applicable to PBS rate changes.

This completes my summary statement, Mr. Chairman. We would be pleased to respond in greater detail to those areas of specific interest to the Subcommittee.

STATEMENT OF WILLIAM R. BARTON

THANK YOU FOR PROVIDING ME WITH THE OPPORTUNITY TO PRESENT THE FISCAL YEAR 1989 BUDGET REQUEST FOR THE OFFICE OF INSPECTOR GENERAL (OIG), GENERAL SERVICES ADMINISTRATION (GSA). THE APPROPRIATION REQUEST FOR THE OFFICE OF INSPECTOR GENERAL TOTALS $25,400,000 AND FULLY FUNDS 452 WORK YEARS.

THIS IS THE THIRD ANNUAL BUDGET REQUEST PRESENTED TO THE SUBCOMMITTEE SINCE MY APPOINTMENT AS GSA'S INSPECTOR GENERAL. IN OUR PRESENTATION TWO YEARS AGO, I EXPRESSED MY CONCERN FOR THE FUTURE OF THE OFFICE OF INSPECTOR GENERAL. AT THAT TIME WE WERE UNDERTAKING EFFORTS WHICH WE HOPED WOULD RESULT IN THE LONG TERM REVITALIZATION OF THE OIG. WE BEGAN FY 1987 WITH 340 EMPLOYEES ON BOARD, WITH VERY LIMITED ADP CAPABILITIES, AND WITH SIGNIFICANT STAFF DISLOCATIONS VIS-A-VIS AGENCY PROGRAMS. SINCE THEN, THANKS TO THE FISCAL SUPPORT PROVIDED BY THIS COMMITTEE, WE HAVE MADE GREAT STRIDES TOWARDS RECONSTITUTING THE VITALITY OF THE OIG WORK FORCE, ENHANCING TECHNOLOGICAL SKILLS, AND REDIRECTING OIG ENERGIES.

BY THE BEGINNING OF FISCAL YEAR 1988 WE HAD ATTAINED A WORK FORCE OF 430, A NET INCREASE OF 90 POSITIONS OVER THE PREVIOUS YEAR. THIS INCREASED STAFFING AFFORDS THE OIG AN EXCELLENT THRESHOLD FOR ATTAINING THE FY 1989 REQUESTED FTE LEVEL OF 452 FULL TIME EMPLOYEES.

IN FACT, WE HIRED A TOTAL OF 156 NEW RECRUITMENTS AND REPLACEMENTS DURING FY 1987, MOST OF WHOM WERE ENTRY LEVEL AUDITORS AND INVESTIGATORS. THE OVERALL SHORT TERM EFFECT OF THIS RECRUITMENT STRATEGY IS THAT A LARGE BASE OF APPROXIMATELY ONE THIRD OF OUR WORK FORCE IS NEW TO THE GOVERNMENT. DURING FISCAL YEARS 1987 AND 1988, MAJOR INVESTMENTS OF TIME AND OTHER RESOURCES HAVE BEEN COMMITTED TO PROVIDE ACCELERATED TRAINING PROGRAMS WHICH INCLUDE BOTH FORMAL AND ON-THE-JOB TRAINING FOR THESE EMPLOYEES IN ORDER TO BRING THEM TO FULL PERFORMANCE LEVELS. WE BELIEVE THAT THIS SHORT-TERM COMMITMENT IN THESE ENTHUSIASTIC, HIGHLY SKILLED EMPLOYEES WILL EVENTUALLY TRANSLATE INTO SIGNIFICANT PRODUCTIVITY INCREASES.

SEVERAL INITIATIVES HAVE BEEN UNDERTAKEN TO PROVIDE OUR WORK FORCE WITH STATE-OF-THE-ART AUDIT AND INVESTIGATIVE TECHNOLOGY. WE RECENTLY ACQUIRED 83 NEW PORTABLE MICROCOMPUTERS, AND

ANTICIPATE DELIVERY OF APPROXIMATELY 79 LARGER DESKTOP MICROCOMPUTER WORK STATIONS WITHIN THE NEXT FEW MONTHS. IN ADDITION, WE HAVE ENTERED INTO A CONTRACT WITH MITRE, A MCLEAN, VIRGINIA BASED NOT-FOR-PROFIT CONSULTING ESTABLISHMENT, TO ASSIST US IN THE DEVELOPMENT OF A LONG RANGE ADP STRATEGIC PLAN. THIS PLAN WILL DELINEATE THE OIG'S ADP EQUIPMENT AND SOFTWARE REQUIREMENTS FOR THE NEXT FIVE YEARS.

WE ALSO BELIEVE WE HAVE NOW FIRMLY ESTABLISHED AND FUNDED A PROGRAM WHICH PROVIDES THE ABILITY TO QUICKLY RELOCATE ESSENTIAL EMPLOYEES NATIONALLY. THIS ABILITY PROVIDES US THE OPPORTUNITY TO RAPIDLY ADDRESS CRITICAL STAFFING NEEDS WHEN AND WHERE THEY OCCUR. AS MOST OF THE OIG STAFF IS ASSIGNED TO REGIONALLY BASED FIELD OFFICES, AND RELOCATION COSTS ARE RELATIVELY HIGH, CONTINUED FUNDING OF THIS PROGRAM IS ESSENTIAL TO THE LONG TERM SUCCESS OF OIG OPERATIONS. I AM PLEASED TO REPORT, THEREFORE, THAT MANY OF THE MANAGEMENT IMPROVEMENT PROJECTS WHICH WE BEGAN WITH YOUR CONSIDERABLE SUPPORT JUST TWO YEARS AGO ARE WELL UNDER WAY AND SUCCESSFUL.

ALTHOUGH OUR BUDGET REQUEST REPRESENTS AN INCREASE OF $1,066,000 ABOVE THE FY 1988 AUTHORIZED LEVEL, $605,000--APPROXIMATELY 57%--IS FOR NON-DISCRETIONARY COSTS WHICH ARE BEYOND OIG CONTROL. THESE NON-DISCRETIONARY COSTS INCLUDE:

- $383,000 FOR THE FY 1989 PAY RAISE
- $ 87,000 FOR INCREASED FEDERAL EMPLOYEES RETIREMENT SYSTEM (FERS) COSTS
- $135,000 FOR INFLATION RELATED TO NON-PERSONNEL EXPENSES

PROGRAMMATIC INCREASES TOTAL $461,000 AND FALL INTO TWO CATEGORIES: $363,000 FOR PROGRAM TRAVEL PRIMARILY IN SUPPORT OF AUDITS AND INVESTIGATIONS, AND $98,000 FOR PROCUREMENT OF ADDITIONAL ADP EQUIPMENT.

THE $363,000 REQUESTED INCREASE FOR PROGRAM TRAVEL IS REQUIRED FOR THE FOLLOWING REASONS:

- GREATER DEMAND FOR AUDITS AND INVESTIGATIONS RELATED TO INCREASED LEVELS OF CONTRACTING EFFORT BY GSA, REQUIRING TRAVEL TO REMOTE LOCATIONS.

- INCREASED EMPHASIS ON INVESTIGATIONS OF WHITE COLLAR CRIME WHICH FREQUENTLY REQUIRE LONG TERM TEMPORARY DUTY ASSIGNMENTS.

- INCREASED TRAVEL REQUIREMENTS RESULTING FROM FULL PERFORMANCE LEVELS TO BE ATTAINED BY EMPLOYEES HIRED IN FY 1987 AND 1988.

- INCREASED PER DIEM RATES AND COMMERCIAL CARRIER COSTS.

THE $98,000 FOR STATE-OF-THE-ART ADP EQUIPMENT REFLECTS ANTICIPATED ADDITIONAL COSTS TO ACQUIRE ADP EQUIPMENT AND SOFTWARE IN ACCORDANCE WITH THE FY 1989 PORTION OF OUR LONG-RANGE ADP PLAN. THIS INCREASE WILL PROVIDE FOR A TOTAL EXPENDITURE OF $1,155,000 FOR ADP EQUIPMENT AND RELATED OFF THE SHELF SOFTWARE DURING THE FISCAL YEAR. THIS INCREMENT, PRIMARILY FOR PURCHASES OF ADDITIONAL MICROCOMPUTERS FOR AUDITORS AND INVESTIGATORS, WILL PROVIDE GREATER APPLICATION OF THE LATEST TECHNOLOGIES TO OUR ANALYTICAL RESEARCH AND REPORT PRESENTATION, THUS AFFORDING POTENTIAL FOR SIGNIFICANT IMPROVEMENTS TO BOTH THE QUANTITY AND QUALITY OF OUR SERVICES.

MR. CHAIRMAN, I BELIEVE THAT FY 1989 IS A PIVOTAL YEAR IN THE TRANSITION WE BEGAN TWO YEARS AGO. WE ARE FIRMLY COMMITTED TO INCREASED PRODUCTIVITY AND SERVICE TO THE AMERICAN PEOPLE. WE ARE CONVINCED THAT OUR REVITALIZED WORK FORCE, OUR REDIRECTION OF RESOURCES, AND THE APPLICATION OF STATE-OF-THE-ART METHODOLOGIES WILL RESULT IN INCREASED SAVINGS, COST AVOIDANCE AND COST RECOVERIES.

MR. CHAIRMAN, THIS CONCLUDES MY OPENING STATEMENT. I WILL BE GLAD TO RESPOND TO QUESTIONS FROM YOU AND THE OTHER MEMBERS OF THE SUBCOMMITTEE.

STATEMENT OF RAYMOND A. FONTAINE

I would like to briefly summarize the General Services Administration's 1989 budget request for the appropriation, Allowances and Office Staff for Former Presidents.

The appropriation for Allowances and Office Staff for Former Presidents provides for pensions and other allowances to which former Presidents and their widows are entitled under law. You have before you, a FY 1989 budget for the Former Presidents' account. This budget request reflects an increase from FY 1988 of $233 thousand from $1.2 million to $1.4 million. The 1989 request will allow for continued funding of pensions, office staffs and related expenses for former Presidents Nixon, Ford and Carter; for pension and staff compensation and office support costs for the new former President as well as for the pension and franking privileges of Mrs. Johnson.

The increase consists of $69 thousand for pensions and $113 thousand for staff compensation and office support costs for President Reagan and $51 thousand for additional office support costs.

This completes my summary statement, Mr. Chairman. We would be pleased to respond in greater detail to those areas of specific interest to the Subcommittee.

PRESIDENTIAL TRANSITION

I would like to briefly summarize the General Services Administration's 1989 budget request for the appropriation, Presidential Transition.

The appropriation for Presidential Transition provides for expenses for the President-elect and Vice President-elect, as well as the former President and Vice President. Authorized by the Presidential Transition Act of 1964, this program facilitates the orderly transition of the expiration of a term of office of a President and the inauguration of a new President. You have before you an FY 1989 budget for Presidential Transition. This budget request reflects a total of $3 million including $2 million for the President-elect and Vice President-elect, and $1 million for the former President and Vice President.

This completes my summary statement, Mr. Chairman. We would be pleased to respond in greater detail to those areas of specific interest to the Subcommittee.

INSPECTOR GENERAL INVESTIGATION

Senator DECONCINI. Mr. Fontaine, on March 29, an article in the Washington Post raised some very serious questions about certain conduct by the GSA Inspector General's Office. The case involves a black GSA inspector, Eddie Carroll, who allegedly was the target of an effort by GSA Inspector General's Office to try to fire him under a cloud of unsubstantiated charges of sexual harrassment by Mr. Carroll.

The article references a decision by Equal Employment Opportunity Commission Judge Samuel Teitelman last June, which said, "Senior inspector general officials fabricated charges against Mr. Carroll, who is black, so they could transfer him out of the Washington field office to make room for a white inspector."

Three members of the Inspector General's Office were implicated in a finding of discrimination against Mr. Carroll. There are other allegations regarding the shoddy investigation conducted by the Inspector General's Office and the judge notes, in his opinion, that one of the inspector general officers implicated in the case was actually chosen to fill one of the slots made vacant when Mr. Carroll was transferred to New York.

Can you give us some background on this case and explain it to us?

Mr. FONTAINE. Mr. Barton.

Mr. BARTON. Senator DeConcini, we went before the EEO Commission for a hearing in 1985 concerning the 1984 transfer of Eddie Carroll. As you said, the hearing officer concluded that there was racial discrimination. I read the text of the hearing and knew that based on the incidents that took place, there was no racial discrimination.

This case is now in district court. In fairness to Mr. Carroll, I would not like to make any statements for the record here, but would go into executive session if you so desire.

Senator DECONCINI. I think that we are going to have to do that, but we can finish the testimony here first. I am concerned that it wasn't just charges of discrimination, but the administrative law judge said that senior inspector general officials fabricated charges, not just charges of discrimination. That is a pretty big charge, so I would like to, when we finish here, do something.

Senator Domenici, do you have any statement that you want to present for GSA?

Senator DOMENICI. No.

Senator DECONCINI. I was just going over a case of racial discrimination regarding Eddie Carroll. The inspector general indicated that he would have to go into executive session. If you would so move that we would do that after we finish taking the testimony of the witnesses.

Senator DOMENICI. I move now that we do that then in the event that I am not here.

BORDER PROJECTS

Senator DECONCINI. Thank you.

Without objection, the committee will do that when we finish this testimony.

Mr. Fontaine, last year the committee initiated a program to repair, alter, renovate, and construct border facilities from Texas to California. The final conference agreement with the House called for $28.7 million to start approximately 84 million dollars' worth of border projects, with another $12 million to be made available out of unobligated balances from the Federal buildings fund.

The committee directed the GSA to get together with the border agencies, and the border trade community to work out the final list of priorities to be initiated in 1988. We have received a preliminary report from region 7 and from region 9, but no reprogramming request from GSA to adjust.

Could you give us the run down on where we are standing on these border projects in both regions, and when we can expect to receive your final list of starts and changes?

Mr. FONTAINE. Duncan Howard can address that, Mr. Chairman.

Senator DECONCINI. Mr. Howard.

Mr. HOWARD. At the moment, 37 of the 47 projects initiated this fiscal year, are targeted for obligation of some funds in fiscal year 1988. We estimate that we are going to be able to obligate $13 million. This represents 79 percent of the projects and 45 percent of the funds.

Senator DECONCINI. Give me that figure again, how much?

Mr. HOWARD. It is 79 percent of the projects and 45 percent of the funds.

We are continually working with other agencies on the border station issues. Region 7 has probably gotten a better handle on the situation than region 9, but I have been in touch with region 9 in the last several weeks and I think that they are doing very well.

We have some additional meetings scheduled. We have six major projects where planned obligations for 1988 are significantly less than funds appropriated in the 1988 continuing resolution. One of these is Calexico, CA, where we have not yet reached a point where a diplomatic note is needed and where there is still some uncertainty on the exact location of the border crossing and, therefore, the new station.

DEL RIO, TX

There is Del Rio, TX, where we have an appropriation of $3,640,000. We will probably only obligate $40,000 this year because there is a master plan that must be done to determine the need for a project. The same is true with Paso Del Norte in El Paso, TX.

YSLETA, EL PASO, TX

We are waiting for diplomatic notes on Ysleta, El Paso, TX. The expanded commercial lot for the Juarez-Lincoln Bridge is going to take some time because of the number of parcels that we must put together to acquire the site.

Congress appropriated $520,000 to upgrade the ferry crossing at Los Ebanos, TX, to a bridge crossing. Instead, a portable structure to cost $50,000 will be installed there.

In summary, I would say that of the $28.7 million, we will have $13.3 million obligated before the end of this year. We will be well on our way to obligating the remaining funds contingent on exchange of final diplomatic notes being exchanged, the development of master plans, and the site acquisitions.

DIPLOMATIC LETTERS

Senator DECONCINI. When you make reference to diplomatic notes, who handles that, the State Department?

Mr. HOWARD. Yes, sir.

Senator DECONCINI. Is that ~~a problem~~, a long period of time?

Mr. HOWARD. Yes, sir; the resolution of underlying issues through the exchange of diplomatic notes can be a long-term process.

Senator DECONCINI. Do you get to meet with the Mexican officials?

Mr. HOWARD. Yes, sir; GSA officials meet with Mexican officials. Our regional people have been meeting with the agencies involved, Customs, Immigration and Naturalization, Agriculture, the Mexican Government, and with the State Department. We have asked that Senators involved work with local United States backers of border projects to provide information required by the Mexican Government. This information is transmitted by the ~~State~~ Department to Mexico. Only when all parties are in agreement on a project will we obligate funds.

Senator DECONCINI. Do you have to have those diplomatic communiques in order to proceed?

Mr. HOWARD. Yes, sir; we do.

Senator DECONCINI. Why?

Mr. HOWARD. We are proceeding as far as the minor design work, and talking with the Mexican Government regarding the projects—what needs to be done and when it can be done. But it is GSA policy that we will not obligate funds until the governments and local participants have agreed on these border station facilities.

Senator DECONCINI. Even if the whole construction is on our side of the border?

Mr. HOWARD. In the cases that I have mentioned, there is construction on both sides, or there is a need for access from the Mexican side.

Senator DECONCINI. You mean that it ties together?

Mr. HOWARD. Yes, sir; for instance, at Otay Mesa, where we are involved in putting together a site on one side, the Mexican Government hasn't agreed with us yet as to whether our site is compatible with their expansion plans.

Senator DECONCINI. This is more site location on their part?

Mr. HOWARD. Yes, sir.

Senator DECONCINI. Not an existing site to add to the building on their side, or something.

Mr. HOWARD. It is site location primarily. We will have problems routing trucks to the desired site at Otay Mesa without Mexican agreement.

The pedestrian crossing at San Ysidro was going to have a temporary opening, during the Superbowl week, as a matter of fact. The Mexican Government decided not to go ahead with that. We are now working to establish an acceptable approach for another permanent pedestrian crossing.

Senator DECONCINI. How long do you have to wait for the State Department to react on these?

Mr. HOWARD. We have been pushing as hard as we can and going ahead with the projects.

Senator DECONCINI. Can you give us a list of when you made the requests of the State Department?

Mr. HOWARD. I certainly can. I will be delighted to.

Senator DECONCINI. So that we know which locations.

Mr. HOWARD. Yes, sir.

[The information follows:]

DIPLOMATIC LETTERS

Diplomatic notes are formal communications between the United States and Mexico through the State Department and the Mexican Secretariat of Foreign Relations. In the case of international bridges and border crossings, there are two levels of diplomatic notes. One is a vehicle for exchange of preliminary information relating to projects. The second, as described in the attached Memorandum of Understanding Between the General Services Administration and the Department of State, is a formal exchange of understandings between the two governments that a specific bridge or crossing project is ready for construction. The general policy of GSA is that this second, more formal exchange of diplomatic notes is when U.S. commitments may be made concerning projects, e.g., contracts for federally-financed border station construction.

The pending need for the exchange of a diplomatic notes reflects a need for additional actions to take place in regard to the project prior to the exchange. For example, the first type of note providing preliminary information on the site, financing, and timing of the proposed Ysleta, Texas - Zargosa, Mexico bridge was exchanged in 1987. The second type of diplomatic note giving a formal exchange of understandings has not yet occurred for this project. The reason is that the Government of Mexico (GOM) is dealing with a new and complex form of private financing for the bridge and is not yet ready to exchange the formal note.

Similarly, in the case of Los Indios, the U.S. sent a diplomatic note to the GOM in 1987 indicating the status of the U.S. proposal for a new bridge at Los Indios, Texas. The Mexicans are committed to constructing this bridge, and planning is well advanced. The GOM has indicated that it will soon respond to the U.S. preliminary note. Once the Mexican information is received and analyzed, planning for the project will be further advanced. At that time it would be possible to exchange the formal note establishing the understandings between the two governments on Los Indios.

There are other projects where an exchange of notes will be needed. These include Santa Teresa, New Mexico, and Calexico, California. In the case of Santa Teresa, the proposal for a border crossing still has to be provided by the private developer for transmission to the GOM through the Department of State. The formal diplomatic notes for this project would only be exchanged after all parties had agreed on the final details of the project. In the case of Calexico, there is still no consensus on whether there should be a new station built outside of town or whether the old border station should be expanded. Again, only when all parties agree to the final project would a formal diplomatic note be exchanged.

At Otay Mesa, California, the GOM recently informed the Department of State that they continue to oppose the expansion of the Otay Mesa border station to the east of the present site.

Memorandum of Understanding
Between
The General Services Administration
and
The Department of State

Statement of Purposes

The purposes of this Memorandum of Understanding (MOU) are: (1) to improve coordination between U.S. executive agencies and with initiators of international bridge and border crossings along the U.S.-Mexican border, and (2) to enunciate the procedures and understandings under which issues related to such bridges and border crossings are resolved within the United States Government (USG) before being raised with the Government of Mexico (GOM).

Interagency Committee - Participants

There is established the Interagency Committee on International Bridges and Border Crossings (Mexico), hereinafter referred to as the Committee. The Committee is comprised of U.S. Federal agencies involved in U.S.-Mexican international bridge and border crossing issues. The Committee meets periodically to resolve technical issues and to provide overall coordination.

Each agency represented on the Committee retains its statutory and regulatory responsibilities for the funding, operation and maintenance of border facilities and services. The Committee may be expanded to include additional agencies as appropriate. The agencies represented on the Committee are:

Department of State, Chairman and Bilateral Coordinator

General Services Administration, Technical and Domestic Coordinator

International Boundary and Water Commission, U.S. Section

Department of the Treasury - U.S. Customs Service

Department of Justice - Immigration and Naturalization Service

Department of Agriculture - Animal and Plant Health Inspection Service

Department of Transportation -
Office of International Transportation
Federal Highway Administration
U.S. Coast Guard

Department of Housing and Urban Development - Office of the Assistant to the Secretary for International Affairs

Environmental Protection Agency - Office of International Activities

Department of Commerce - International Trade Administration

Each member agency shall designate its representative on the Committee.

(Note: As of September 1987 this MOU had been signed by GSA, USIBWC, INS, USDA/APHIS, Transportation, HUD, EPA and Commerce.)

Those agency members of the Committee which have direct interests and responsibilities in the construction, operation and maintenance of border crossings and related inspection facilities shall comprise the United States delegation which meets periodically with a similar delegation from the GOM to consult on issues related to international bridges and border crossings on the U.S./Mexico border. These delegation members shall include the Department of State (DOS), the General Services Administration (GSA), the inspection agencies, and any other agency member which determines that it is appropriate, in light of any understandings reached with the GOM, for that agency to serve on the delegation.

This series of meetings with GOM representatives is the designated channel for discussing international bridge and border crossing proposals between the two Governments. If the Mexican delegation is chaired by the Mexican Secretariat of Foreign Relations (SRE), the U.S. delegation shall be chaired by the Department of State (DOS). Should a Mexican domestic agency chair the Mexican delegation at a particular meeting or sub-meeting, its U.S. counterpart will normally chair the U.S. delegation at that meeting.

Between the periodic meetings with the Mexican delegation, communications with the GOM on international bridges and border crossings may be initiated by any of the agency members of the Committee, and shall be conducted through diplomatic channels. Once international bridge and border crossing projects are approved by the two governments through exchanges of diplomatic notes, described below, communications with the GOM on those projects normally shall be conducted directly between project managers designated in the diplomatic notes.

Interests of private individuals and companies and local and state governments may be represented at meetings of the Committee or at the U.S. delegation's meetings with its Mexican counterpart by one observer each from Governors' offices of the four states located on the U.S.-Mexican boundary. As observers, the Governors' representatives may volunteer suggestions or comments but will not be assigned to undertake tasks in connection with the planning, technical and analytical functions of the Committee.

U.S. Review Process

A border crossing with Mexico, whether a land or water crossing, could be initiated by the GOM, a private individual or company, or a federal, state or local government agency. Proposed changes to existing crossings can be initiated similarly. New projects or proposals for major changes in existing crossings should be submitted to the Committee for consideration of how Federal facilities needed for such projects and proposals can be planned and funded. GSA shall coordinate the review process on the technical and domestic level. DOS will provide any needed coordination with the GOM during the review process. The review will be accomplished through independent review as well as at meetings of the Committee. The constituent agencies shall review the proposals from the perspectives of their own areas of responsibility and under existing legislation and regulations, including the International Bridge Act of 1972 (P.L. 92-434, 86 Stat. 731), and Executive Order 11423 (F.R. 11741, August 20, 1968):

Department of State:
- -- Presidential Permit for new water crossings.
- -- Coordination of communications with the GOM.

General Services Administration:
- -- Impact on border station facility planning.
- -- Impact on funding availability.

- Impact on local government/community.
- Prospectus submission to OMB and to the Congress.

International Boundary and Water Commission (U.S. Section):
- Review of design to assure that the courses of international rivers are not changed, thereby changing the location of the international boundary.
- Establishment of the boundary line and placement of an appropriate monument at bridges exactly over the determined international boundary.

Department of the Treasury (U.S. Customs):
- Port of Entry designation for new crossings.
- Impact on staffing, space, funding, timing, and security and safety requirements for employees.
- Develop annual listing of highest priority projects.

Department of Justice (INS):
- Impact on staffing, space, funding, timing, and security and safety requirements for employees.
- Develop annual listing of highest priority projects.

Department of Agriculture (APHIS):
- Impact on staffing, space, funding, timing, and security and safety requirements for employees.

Department of Transportation:
- Coast Guard - Impact on navigable waterways: approval of specific bridge locations and plans; issuance of a permit; assurance that bridge is constructed according to environmental and navigational conditions established under the permit.
- Federal Highway Administration - Impact on highways

Department of Housing and Urban Development
- Impact on urban development planning along the border in keeping with White House Southwest Border Initiative.

Environmental Protection Agency:
- Impact on border environmental quality.

Department of Commerce:
- Impact on border trade and industry, including tourism, counterfeiting, and gray market.

The Office of Management and Budget (OMB) is a participant in the process when projects require prospectus submission to OMB and to the Congress. OMB reviews the project for consistency with the Administration's goals and priorities for federal investment and resource levels.

Following its reviews the Committee will recommend proposals to be included on the agendas of the bilateral meetings with representatives of the GOM. In keeping with their legal and administrative responsibilities, the agencies represented on the U.S. delegation may choose in these meetings to discuss with GOM representatives comprehensive planning for border crossing needs within an entire community or economic area as well as to discuss individual projects.

Should the Committee decide to consider comprehensive planning discussions with representatives of the GOM, the

Committee will proceed according to these guidelines: (1) When a comprehensive planning discussion is elected, each agency on the Committee shall develop an assessment of its needs in that area. (2) Recognizing the primary role of U.S. state and local governments in economic development planning, the agencies represented on the Committee shall take into account economic development plans of state or local governments or of organizations such as regional planning commissions or councils of governments. (3) The Committee shall develop general evaluation guidelines, aggregate the facts and needs presented by each agency, and analyze the relative merits of alternative methods of meeting the needs for federally financed facilities. (4) The Committee shall arrive at a consensus on the posture to be taken by the U.S. delegation before its consultations with GOM representatives.

When both Governments are in agreement on a major project or issue, there will be an exchange of diplomatic notes between the two Governments, initiated alternatively by DOS and SRE. The diplomatic notes describe the understandings reached at the bilateral meetings and/or at other points, if necessary, in the progress of a project. These understandings are intended to provide a reasonable degree of assurance that both countries are proceeding with appropriate and corresponding actions on a particular project. The general policy will be that the exchange of diplomatic notes is the designated point in time at which U.S. commitments may be made concerning projects, e.g., contracts for federally-financed border station construction. After the exchange of diplomatic notes on a project, GSA assumes technical coordination responsibility within the U.S. for implementing the approved border station projects.

When a project has been authorized and funded, SRE and DOS, in consultation with GSA, shall designate the U.S. and Mexican project managers. These designations are specified in the exchange of diplomatic notes. The project managers may resolve technical problems, through direct correspondence, meetings, or other methods, without coordination by DOS. However, DOS shall be notified in advance of meetings and shall be kept informed of the status of the project.

Except for state observers described above, the Committee shall be composed of full-time federal employees. They will act under existing authorities and appropriations. Agency representatives will participate in the activities of the Committee with existing resources and staffs. Agencies and states will bear the travel costs and other expenses of their representatives.

Enactment of the Memorandum of Understanding

This Memorandum of Understanding will become effective upon signature by both the Department of State and the other agency. It shall remain in effect until either party decides to terminate it. It may be modified or extended by mutual agreement.

For the General Services Administration:

W.F. Sullivan

Commissioner, Public Buildings Service

Date November 10, 1986

For the Department of State:

Elliott Abrams

Assistant Secretary of State for Inter-American Affairs

Date 3 NOV 1986

LEVEL OF CONTACT

Senator DECONCINI. Do you get involved, Mr. Fontaine?

How high up in the State Department do you go? Do you go to the Secretary to get their support?

Mr. FONTAINE. I am not really sure, Mr. Chairman. PBS people deal with the State Department.

Senator DECONCINI. How far up in the State Department do you go?

Mr. HOWARD. When necessary we have involved the Assistant Secretary level.

Senator DECONCINI. It is your understanding, but you haven't gone?

Mr. HOWARD. No; I have not gone myself.

Senator DECONCINI. Who would have gone, Mr. Golden?

Mr. HOWARD. If necessary, that level may be involved.

Senator DECONCINI. Can you check that for us to see whether or not that has been done, and report to us please?

Mr. HOWARD. I certainly will.

[The information follows:]

Daily contact occurs on border station matters at the office director level at the Department of State, and as needed at the Deputy Assistant Secretary and Assistant Secretary of State level.

NOGALES, AZ

Mr. FONTAINE. These things get complicated because you have a lot of people involved. You must have requirements from Customs and Immigration, and sometimes they are not so responsive.

Senator DECONCINI. I understand that.

Mr. FONTAINE. You have a lot of parties involved, and sometimes it just doesn't move all that swiftly.

Senator DECONCINI. I was just in Nogales, AZ. Although there are no immediate plans for change there, I met with the business community, not just the commercial people but some of the other agencies down there and business interests over the border.

I have the name, and I will get it for you. GSA sent a temporary person who came down there 3 years ago and met with all of the community, the chamber of commerce and the commercial people, and they were very pleased. They have not seen her since then because she got transferred. Then they sent an architect down there from Denver who had just some schematic plans, but had not talked to them or done anything.

They were very worried that GSA was going to go in there and build this new thing and never talk to anybody down there. I will give you the details, because I don't have them right here with me, but I would really appreciate it if you could get somebody to go down and talk to them. They just want to feel that they are being heard on the traffic flows, and what-have-you.

I understand they have their own special interests, they have a store there and they want the people to walk looking at the sign or something. I am not interested in that part of it, but I am interested that they feel like GSA is looking at that. I will get you some details.

Mr. HOWARD. Senator, we have a meeting set up with the border trade community Monday, April 25, in region 9.

Senator DECONCINI. In Nogales?

Mr. HOWARD. No, sir; we are meeting with them before the end of the month because we do have some plans.

Senator DECONCINI. Can you give me those dates because I would like to have someone from my office in Arizona attend.

Mr. HOWARD. Yes, sir.

[The information follows:]

The General Services Administration regional office in Fort Worth, TX, had a meeting with representatives of the border trade community on April 18, 1988. The members of the border trade community included representatives of the Governor of Texas, the Texas Department of Commerce, and importers from Hildalgo, McAllen, and El Paso, TX.

The GSA regional office in San Francisco will hold a meeting on April 25 with representatives of the border trade community in San Diego. The meeting will include representatives of the city's office of bilateral affairs, the president of the San Diago Development Council and import brokers.

REPROGRAMMING REQUEST

Senator DECONCINI. That will be very helpful, and I am glad to hear that.

I intend to recommend to the committee that we proceed with the second phase of border facility improvement projects in fiscal year 1989, including the funding to finish up phase 1 projects, if possible.

How much would we need to complete the ongoing projects started in fiscal year 1988, and initiate the next phase of priority projects along the Texas-New Mexico-Arizona-California border?

Mr. HOWARD. Senator, we will probably have a request for reprogramming for funding in addition to the $28 million that we have.

As far as the next phase of the program is concerned, I have been in contact with both of my counterparts in the regions. I don't really have a good number this morning, but we will have a hard and fast number by May of this year as to what the program will be for next year.

Senator DECONCINI. That is good. I appreciate that.

I am going to yield to the ranking member here.

COOPERATION OF MEXICAN GOVERNMENT

Senator DOMENICI. Mr. Chairman, I just wanted to ask a question with reference to the new border facilities.

It is my recollection, and I am not as familiar with the border situation as my friend from Arizona, but whenever I met on the border and there were deficient facilities, I found the Mexican Government was just as concerned about the deficient facilities as we were. They were concerned that we had very archaic facilities that jammed up traffic.

Now let me see if I understand correctly. We have this rather substantial new construction program, with a number of crossings being substantially improved, and maybe some being moved so as to make things work better. You are not suggesting that in any general way the Mexican Government is opposed to these improvements, are you?

Mr. HOWARD. No, Senator; not at all.

Senator DOMENICI. Are you suggesting that they are not cooperating?

Mr. HOWARD. No; I think they are being cooperative. The problems seem to be taking some time. One problem is coordination between some of our agencies, Customs, Immigration and Naturalization, and Agriculture scoping the work and letting GSA know the requirements for the facilities.

I would say that the problems, as I have seen them, tend to fall into two or three categories. One is site acquisition, the difficulty of dealing with multiowners in pulling sites together. Another one is agreeing to the location. The Mexican Government has sometimes been concerned as to whether their site will correspond with the site that we have on our side of the border, or they may disagree with the scope of the project.

In one case, there is a small ferryboat crossing where a major bridge was planned. The Mexican Government has stated that they prefer to allocate funds elsewhere so we are reassessing the project to determine a proper facility for this location.

Those types of problems are the things that we run into. I think, especially in region 7, where our people have been meeting consistently and constantly, and now that region 9 is pulling up to speed, we have some momentum. I think that the program will accelerate, and we will be able to obligate more of the funds appropriated.

STATE DEPARTMENT COOPERATION

Senator DOMENICI. Do you feel, to the extent that the State Department has a role, that they are also cooperating on our side?

Mr. HOWARD. Yes, sir; I think they are cooperating. I think that they have run into minor snags, but they are making progress on the diplomatic communications. There are probably two major projects where diplomatic communications are needed. Then we have two or three projects that require master planning and site acquisition, so as a consequence, we are only able to obligate a small portion of the money at this time.

Senator DOMENICI. Would it help if the Secretary of State designated some specific person within his organization to assure the State Department's timely and full cooperation?

Mr. HOWARD. Anything that can be done would be helpful. The Office of Mexican Affairs at State, which has responsibility for international crossings is doing an excellent job.

Senator DOMENICI. I don't know if the chairman agrees with this, but I really think we made a neat start in this. We have been thinking about it, and if we did it one project at a time, the way we did it for the 15 years I have been here, we wouldn't have anything done.

I think we ought to have somebody kind of advising this committee on a regular basis of where the hangups are. You can't go down to one single coordinator, because you have to work with these agencies, and we don't want to create something new, but it does seem to me that we could wake up to the next appropriation cycle and there will still be 38 problems that they found out there, and only one project started.

Mr. HOWARD. We will certainly be more than happy to do that.

Senator DECONCINI. The committee, if the Senator would yield, put in report language to receive semiannual reports from the GSA during the fiscal year 1988. We will probably use the same language. Maybe we will want to know even more often than that.

[The information follows:]

The General Services Administration will send up quarterly reports on the status of the southern border station projects. The reports will provide an overview of progress on the projects and will discuss any problems we are having. The first quarterly report will be provided in Mid-July.

OAKLAND/SAN FRANCISCO FEDERAL BUILDINGS

Mr. HOWARD. We keep a current status of where we are and where our problems are.

Senator DECONCINI. I agree completely with the Senator from New Mexico that we would like to help you, if we can.

Senator DOMENICI. Our problem, Mr. Chairman, is that if we can't obligate this money because of interagency hangups, our ability to continue to find long-range money here is going to be greatly diminished. Someone is going to tell us that they want to spend it somewhere else.

Senator DECONCINI. That is right.

Do you have any other questions?

Senator DOMENICI. That is it.

Senator DECONCINI. Mr. Fontaine, in the fiscal year 1988 continuing resolution, Congress mandated that a Federal building in Oakland and San Francisco be started by using a lease/purchase method. The San Francisco building is to be built on a site donated by the city, and Oakland has already identified and begun development of a site, I understand. The language contained in the continuing resolution was essentially administration language that would authorize the projects to go forward.

Now OMB apparently is saying that we need the upfront funding for Oakland before they can start, and has proposed $141.7 million in your budget to cover the cost of the building in Oakland, yet the OMB Director testified before this subcommittee in March that all of the building projects, including San Francisco and Oakland, were going forward this year, and gave no indication that progress was at all conditioned on providing the upfront money for Oakland.

Can you give us the status of the Oakland and San Francisco Federal buildings, and can we assume that you are going full speed ahead on both in fiscal year 1988? If not, can you explain why?

OAKLAND FEDERAL BUILDING

Mr. FONTAINE. Mr. Chairman, let me deal with Oakland first, and then I will address San Francisco.

Senator DECONCINI. OK.

Mr. FONTAINE. OMB's decision, based on provisions of the Antideficiency Act, required that either the whole $141.7 million be funded up front or the language in the authorization be changed. We must have new language or the money, one of the two.

The Oakland building design is almost finished. I believe that the design is almost 98 percent completed. But under the current scenario, we feel that we could not award a contract for construction financing prior to October 1, 1988. We either need the money or the authorization.

SAN FRANCISCO FEDERAL BUILDING

Our regional administrator in San Francisco met with the mayor, the city fathers, Chairman Roybal and Congresswoman Pelosi approximately 1 week ago to look at two sites in the city. Either of the sites would be acceptable to us. There is a problem in that the city does not own either of the sites, and the language directs a donated site.

So the city is trying to figure out how they can acquire those sites. Right now either site would probably be acceptable to us. They are both in good locations, but it is the city's problem to determine how they are going to get title to the site and then donate it to us.

Senator DECONCINI. Did your counsel advise you not to go ahead with the Oakland building until October?

Mr. FONTAINE. Yes, sir; we are still in the design stage, but if we could award, say, August 1 or September 1, we feel——

Senator DECONCINI. Mr. Miller testified here that we have six lease/purchase agreements in the continuing resolution that we are going forward with. We did discuss this with him. Although Mr. Riso talked about the scorekeeping problem, it was my understanding that they were going to let them go ahead this year.

Mr. FONTAINE. I would say, we could go up to the point of award, but we have no legal basis without the money or an authorization in the language.

Senator DECONCINI. If this committee doesn't give you the $141.7 million in fiscal year 1989, will you go ahead with Oakland?

Mr. FONTAINE. If we get correcting language.

Senator DECONCINI. With correcting language, you can do that?

Mr. FONTAINE. Yes, sir.

Senator DECONCINI. I got the message. It is not what we intended, but it will not be the first time.

Mr. FONTAINE. Lots of lawyers want to play in this one.

Senator DECONCINI. We have to keep the lawyers busy, don't we?

Mr. FONTAINE. It seems that way.

TUCSON, AZ

Senator DECONCINI. Mr. Fontaine, Congress and the President approved $1.5 million for purchase of a site in the central business district of Tucson, AZ, for the future location of a Federal law enforcement office complex. GSA was directed to coordinate the acquisition of such a site with the appropriate Federal agencies and judicial authority in Tucson.

Can you tell us the status of that project, and have you discussed this procurement with Judge Bilby or other members of the judiciary in Tucson?

Mr. FONTAINE. Mr. Howard will respond to that, Mr. Chairman.

Mr. HOWARD. Senator, it is my understanding that we have met with Judge Bilby and the clerk of the court, Mr. Burke. We have advertised for sites in the immediate vicinity of the courthouse, and we are on target in evaluating the alternatives.

Senator DECONCINI. Is that the building, do you know, that is directly east of the present courthouse or across the street from the old one and east of the new one?

Mr. HOWARD. That is right.

FTS-2000

Senator DECONCINI. I have some questions that I am going to submit to you regarding the multibillion contract for the new Government-wide telecommunications system called the FTS-2000.

I would like to pursue it just a little bit here. I would like to know if the independent advisory committee is the interagency management council task force called for under the continuing resolution?

Mr. FONTAINE. Mr. Carr.

Mr. CARR. Yes; we are putting in place several panels that are required for various reasons. We are meeting the requirements of the language.

Senator DECONCINI. You are?

Mr. CARR. Yes.

Senator DECONCINI. When will you have complied with that language, Mr. Carr, do you have any idea? Do you think that it is soon, weeks away or months away?

Mr. CARR. It has to be by the end of this month.

Senator DECONCINI. That is what I thought, so you have to be moving along.

Mr. CARR. Yes.

Senator DECONCINI. I am concerned about what steps GSA has taken to insure the integrity of the bids which are to be submitted at some point in the future as the newspapers have extensively reported that individuals within GSA, personally involved with the electronic tandem network, ETN, switching procurement, leaked confidential bid information to prospective bidders and others.

Are the individuals who were involved on the switching contract totally excluded from any involvement with the FTS-2000?

Mr. CARR. With regard to that specific individual, and without reference to whether the allegations are correct or not, that individual has been separated totally from any other telecommunications activity.

As far as the protection of the bids is concerned, there is a special facility that will be used for the evaluation team to carry out its work, and all of the proposals will be treated as though they were classified information, classified at the secret level.

Senator DECONCINI. Do you have a procedure to see this integrity is maintained?

I am concerned about it. All I want it to be is fair, and I am concerned about human nature, and also potential improprieties.

Mr. CARR. We are using a site in McLean that is operated by Mitre Corp. It is a site that they use when they are handling classified information.

Senator DECONCINI. You have contracted with them to do this?

Mr. CARR. Yes; they are part of the support services that we have. They have a security officer. The facilities are secure, of the appropriate size, and things of that sort. The procedures are in place, and all the proposals will be treated just as though they were secret documents, classified documents.

Senator D'AMATO. Mr. Chairman, may I?

Senator DECONCINI. Yes.

FTS-2000 INVESTIGATION

Senator D'AMATO. What action, if any, has been taken or is being taken with regard to the allegations concerning that individual?

You say that the person has been separated from this process, but is there any investigation? Who is conducting that investigation? What, if anything, has been produced?

Mr. CARR. There are at least three separate investigations that are ongoing, and the results of those investigations have not been disclosed.

Senator D'AMATO. Who is conducting those three separate investigations?

Mr. CARR. The GSA Inspector General's Office.

Senator D'AMATO. Your Inspector General's Office.

Mr. CARR. Correct.

I believe there is a GAO investigation being done for Senator Glenn. The third, I believe, is the Justice Department.

Senator D'AMATO. How long has the inspector general's investigation been underway?

Mr. CARR. We can ask Mr. Barton.

Mr. BARTON. Senator D'Amato, I believe it was November of last year when we first became involved. We are working with the Government integrity section of the Department of Justice and the FBI. It is a joint investigation and it is still going on.

Senator D'AMATO. It is 5 months?

Mr. BARTON. Yes, sir.

Senator D'AMATO. I am not going to comment any further because I obviously don't have any facts on this matter, but I have to tell you, it is rather disturbing. It is more than disturbing.

I hope you don't get into a situation where the Justice Department may not have sufficient resources to proceed in a criminal matter. I understand protecting people's rights and not compromising that, so to speak, to wash this situation out. It is absolutely unconscionable.

Mr. BARTON. I think that may be in closed session, Mr. Chairman, we could get some kind of a report with respect to what the agency itself turned up.

Senator D'AMATO. I don't think that you have turned up anything at all. It came from outside complaints. What do you do to protect against these kinds of situations?

Mr. BARTON. I will be glad to discuss that with you in an executive session.

Senator D'AMATO. Why wasn't this turned up?

Senator DECONCINI. Can you do that when we go into the other executive session this morning, or do you need more time?

Mr. BARTON. No; I can do it this morning.

Senator DECONCINI. We are going to have an executive session just as soon as we are finished here on another matter.

PREPARED STATEMENT

Senator D'AMATO. Thank you, Mr. Chairman.

Mr. Chairman, I have a statement relating to the General Services Administration and the Executive Office of the President which I would like to have included in the record.

Senator DECONCINI. Without objection, your statement will appear in the record at this point.

[The statement follows:]

STATEMENT OF SENATOR ALFONSE M. D'AMATO

Mr. Chairman, I would like to welcome to the subcommittee this morning our distinguished panel of witnesses who will present the fiscal year 1989 budget requests for the General Services Administration and the Executive Office of the President.

The GSA is requesting $299.4 million for fiscal year 1989. This represents a $33.6 million increase over funds appropriated last year. The largest budget initiative is in the form of an additional $45 million to relocate agencies from underutilized sites to ones that are more suitable.

There is also a $3 million request to cover expenses of the upcoming Presidential transition later this year. This is coupled with increases in the Office of Inspector General, which supports long-term information processing and applied technology needs, and in allowances for office staff for the newest former President.

The fiscal year 1989 budget request for maintenance and operation of the Executive Residence at the White House is $7.403 million. Of the $7 million, $2.4 million will go toward the exterior restoration of the White House as part of the 6-year initiative to restore it before its bicentennial in 1992; and $5.698 million will be used for restoration of the interior of the White House.

The 10 executive office accounts have requested $59.6 million for fiscal year 1989. This represents an increase of $2.6 million over what was appropriated in fiscal year 1988. Part of the reason for the increase is due to Presidential transition period expenses later this year.

I look forward to the testimony of our many witnesses this morning as the subcommittee considers the fiscal year 1989 budget requests for the GSA and the Executive Office of the President.

Thank you, Mr. Chairman

BATON ROUGE, LA

Senator DECONCINI. I have just a couple of other questions, and then I will yield to my members here.

Mr. Fontaine, this committee, Congress, and the President approved $3 million for cost of site planning and design on a 140,000 square foot Federal building in Baton Rouge, LA. The committee also directed the Administrator of GSA to submit a budget request for the construction.

Your budget does not have any construction money. Why haven't you complied with the committee's directive, or when can we expect to receive the budget request?

Mr. FONTAINE. Mr. Howard will respond to that, sir.

Mr. HOWARD. Senator, since I was appointed as Commissioner of the Public Buildings Service, there has been a lot of change regarding this project. My understanding is that the Corps of Engineers, which had a 40,000 square foot requirement, moved out of the area. Therefore, we have to take a new look at the requirements.

We have an OMB-approved prospectus for a 7,300 square foot extension to the Federal building/courthouse. The courts have told us that they have additional requirements. Since I have been here, the numbers have changed from 7,300 square feet to 40,000 to 100,000 to 140,000. We are now trying to come to a final decision as to what size project will be built.

OPEN COMMUNICATIONS

Senator DECONCINI. The committee recommended a new obligational authority to construct a new 140,000 square foot building. I would hope that you would consult with the Senators and the Members from Louisiana.

They are very interested, and if you are going to do something less than what the committee is suggesting, at least keep them advised of what you are coming down to so they can understand it, so they don't chew you out the next time you are here and say, "Why didn't you do what we asked you to do," because there may be a good reason and maybe they would be satisfied if you do 127,000 or 75,000. I don't know.

I think, for their satisfaction and also for your protection, you might want to consult with them. Will you do that?

Mr. HOWARD. We certainly will. I have been in touch with Senator Johnson. He is supposed to send me some additional numbers. We have a joint study underway with the courts that is supposed to be completed by June 15, 1988.

WILKES BARRE, PA

Senator DECONCINI. Very good.

Last year, in the general provisions to the continuing resolution, we directed GSA to proceed with site selection and design for construction of a Social Security Administration building in Wilkes Barre, PA. Senator Specter and others, of course, are interested in that.

I understand that despite this clear statutory directive, OMB is dragging its feet and threatening to withdraw this apportionment of funds to you for this project.

What is the status of the Wilkes Barre project, and give us a specific timeframe, if you can, for your obligation of at least some of the money already appropriated.

Mr. FONTAINE. Mr. Chairman, I know there has been discussion between OMB and the SSA on their requirements in Wilkes Barre. We feel there is a need for this building and we have obligated some money on it. We have general guidance from OMB that they don't intend to rescind the money. The money has been made available to us and we have obligated a small amount.

Senator DECONCINI. But it is obligated in such a manner that it won't lapse at the end of the fiscal year?

Mr. HOWARD. That is correct, Senator.

Senator DECONCINI. It is going forward.

Mr. HOWARD. By April 30, we will have awarded a contract to develop refined space requirements for the Social Security Administration that looks like it is going to be the 200,000 square foot building.

Senator DECONCINI. When did you obligate that, Mr. Howard?

Mr. HOWARD. It will be obligated within 30 days.

Senator DECONCINI. OK.

Mr. FONTAINE. The Philadelphia region does have the money. We are not holding it here in Washington.

Senator DECONCINI. Has the region obligated the money?

Mr. FONTAINE. Yes; the region has obligated some money.

Senator DECONCINI. Thank you. I will pass that on to Senator Specter, and you may want to bring that good news to him yourself.

Mr. HOWARD. We would be delighted.

DETAILEES TO EXECUTIVE BRANCH AGENCIES

Senator DECONCINI. My last question. Your March 2 report on detailees to other executive branch agencies, Mr. Fontaine, raises some of the fundamental problems I have had with the whole Government detailee program. I do not mean to single out your agency, but some of the detailee assignments are really questionable.

For example, in fiscal year 1987, you detailed a total of five positions to the Office of Management and Budget to provide support on special projects, assist in preparing the budget for the President, and to provide assistance with other areas. You also detailed a personnel officer to the Commission on Civil Rights to conduct RIF and process merit system protection.

I can understand those kinds of needs to some extent, but I am concerned. Why did you send five of your people over to OMB, including two people for the entire fiscal year, and did you receive any reimbursement?

Why would a GSA staffer go over to the Civil Rights Commission to help with activities that are the province of OPM and MSPB?

Mr. FONTAINE. Mr. Chairman, I assume that I will have to plead guilty on this and ignorance also. I was not aware of this. Can I provide an answer because I really don't know.

Senator DECONCINI. Let me just ask another question, for the record, then. In the first quarter of 1988, you detailed a secretary to OMB. He or she has been at OMB for nearly one-half the year. I would like to know what is so difficult about them not being able to get a secretary. That certainly isn't some special project where they don't have the resources. If you can answer this one for me, too.

Mr. FONTAINE. I understand. I would like to provide an answer for the record, because I was not aware of that.

[The information follows:]

Two GSA employees were detailed to OMB for the entire fiscal year 1987. One of these employees interrelated with OMB in the Government-wide aspects of the A-76 program. This employee's extensive A-76 background provided the necessary expertise in developing new dynamics to this program and installing and monitoring its implementation, Government-wide. The initial detail was extended through the end of the fiscal year to assure continued successful progress in this effort. The services of this individual were requested due to her pioneering efforts in this field, including initial training of other GSA employees in the successful initiation and administration of this program. This individual is now an OMB employee.

The other employee detailed to OMB is engaged in Government-wide procurement initiatives designed to foster greater efficiencies and economies, who, because of his extensive background is chairing a special task group of senior executives representing 10 agencies. The task group is developing for the President's Council on Management Improvement [PCMI] a strategy for automating the Government's procurement process. It is planned to continue this arrangement.

The other three employees detailed to OMB for various time periods assisted in fulfilling time sensitive requirements, principally in areas where there was an active program interrelationship between GSA and OMB. This included a budget analyst to assist in the heavy workload of finalizing the President's budget together with budget analysts of other major agencies who were also selected for this purpose.

These details to OMB were nonreimbursable since the efforts expended by these employees produced results that were beneficial to both OMB and GSA.

The personnel officer detailed to the Commission on Civil Rights for 75 days in fiscal year 1987 had many years of experience in administering personnel matters of an agencywide nature including RIF and appeals procedures. This employee was critically needed to fill this void in the Commission. This was a reimbursable detail.

It is our understanding that the secretary detailed to OMB in fiscal year 1988 served as the secretary of the PCMI under the direction of its Vice Chairman, Gerald J. Riso. If HHS or some other agency would have been the vice chairman she would have been identified to assist that person. She was GSA's contribution to the PCMI in support of interagency management initiatives.

ADDITIONAL QUESTIONS

Senator DECONCINI. That is fine, Mr. Fontaine. I am going to submit the balance of the questions. I am sorry to tell you that there are a lot of them. We certainly don't expect them by Monday.

Mr. FONTAINE. That will be no problem.

Senator DECONCINI. I will yield to the Senator from Maryland for any questions she may have.

Senator MIKULSKI. Thank you very much, Mr. Chairman.

I would like to congratulate you on your work yesterday on, once again, trying to dry up the supply of drugs in our country.

Senator DECONCINI. I want to thank the Senator for her help.

RELOCATION POLICY

Senator MIKULSKI. Mr. Fontaine, you are coming into a tough job. We feel that we had a very good relationship with Mr. Golden. We look forward again to working with you.

I am going to talk about three areas. One, your relocation policy, the activity in the Metropolitan Washington area; second, the maintenance and asbestos removal issue, where we are both the owner and operator; and third, the new work force need for day care. Those are going to be the three areas I would like to talk over with you.

You are our landlord and the Government's landlord, and your job is to provide quality space at a cost that we can afford, and then, once we get into it, make sure that it is safe for our Federal workers. This is no small task.

This then takes me to the issue of getting good quality space at affordable prices. We appreciated Mr. Golden's efforts to relocate agencies in both Maryland and Virginia. We are at times concerned with what happens to Maryland in this process. All we want to be able to do is compete on a level playing field.

We know you face the problem with agencies within the Federal Government, everybody wants to be close to the White House. Everybody hopes that Ronald Reagan is going to call, and they can be there in 5 minutes, even though some of them have been waiting 16 years for that kind of call. We understand that no one wants to swim upstream to the White House, and so on.

This takes me then to what steps is GSA going to take to continue Mr. Golden's efforts to develop a more reasonable relocation policy, and what criteria do you see being able to use?

For example, Maryland lost out because we had Metro Sites on line, but they didn't exist. Would you go over that with us?

Mr. FONTAINE. I will begin, and then I will turn it over to Duncan Howard who is the real expert.

Historically, as far as the Washington, DC, metropolitan area is concerned, because the Pentagon is located in Virginia, most of the Defense agencies wanted to be housed in Virginia. Because of NIH, we tended to put social type agencies in Maryland. You have the two anchors, the Pentagon and NIH, and then we go from there, with exceptions, of course, but generally that was our master housing plan.

Generally speaking, rent costs are lower in the suburbs. Then you have the questions of public transportation, affordable housing, and things of that kind. There are a lot of considerations. Of course, you are right, a lot of these agencies have to be within walking distance of the White House.

Senator Mikulski. Everybody would like to be, but some need to be.

Mr. Fontaine. We went through this with the Peace Corps, that you have read about in the newspaper. We thought, with Metro, it would be a matter of minutes to get downtown from Arlington.

I will let Mr. Howard take it from there, but that is an overview of where we are heading as far as housing agencies. Obviously, we like to share the wealth between Maryland and Virginia.

Senator Mikulski. I want to be very clear. For those agencies that appropriately need to be in the District of Columbia, we are supportive. Those that need to move to the suburbs, we are not going to be in competition with our Virginia folks, but again we don't want it to tilt only to Virginia.

Mr. Fontaine. I understand.

Mr. Howard. Senator, I thought that I brought a list of agencies with me, but I don't seem to be able to find it—but we have about six agencies that we are working with right now, looking at space in Maryland. We look metrowide.

As you know, as we work with the agencies, we try to honor their request, taking into consideration the quality of the space, the location where they feel they need to be considering their work force, and also the cost and the availability of transportation.

GSA has plans for metrowide solicitations, including the Maryland suburbs. Right now there is a proposed consolidation of the IRS, with no OMB approval as yet. We are looking at a location for them in Maryland. The National Science Foundation is another agency that is looking for space metrowide.

We are in the process of moving the Bureau of Mines out of Columbia Plaza, even though the Department of the Interior has indicated that they will try to house them in Interior's existing inventory. The Department has asked us to remove the facility at Avondale, MD, from excess. It will probably be renovated for a long-term home for the Bureau of Mines in Maryland.

We certainly want Maryland to be able to compete fairly. We will continue to work with you on that basis.

Senator Mikulski. We look forward to working with you.

For the record, the average cost per square foot in one recent survey I have is: the District of Columbia is $31.69; in Arlington County, VA, it is $24.32; in Montgomery County, it is $22.29; in Fairfax County, VA, it is $20.85; Prince Georges County rents for $16.05.

I compare our cousins in Virginia and ourselves not as much with each other, which tends to have parity, but with the District of Columbia. We feel that in today's close budget times, particularly with the advent of Metro, we can get a good dollar for you. It is a good commute and the people tend to like it.

Mr. Howard. We are continuing to try to work toward those ends.

Senator MIKULSKI. We want to work with you on that.

The next question is the problem of asbestos in our Federal buildings. Many were built at a time when we thought asbestos was, if not a healthful product, a benign product, and maintenance of it was not supposed to be difficult.

I will use Baltimore now as an example. We have the Fallon Building, which was built, one of the first Federal buildings downtown, for which we were grateful. Now we have the asbestos problem. It is an old problem.

I am wondering now, what are we doing in the area of asbestos removal. Do you have the proper resources to help with asbestos removal?

Second, the buildings where we ourselves are the landlord, how are we doing on maintenance, and do you have the necessary resources to do proper maintenance in buildings that we own? Is this one of your big issues?

Mr. HOWARD. Yes; it certainly is one of our big issues.

We hope to request a reprogramming action this year for real property operations. The reprogramming will enable us to do top quality, standard cleaning, maintenance, et cetera. We will be back to this committee asking for that.

As far as the asbestos subject is concerned, it is of major concern to us. We have a program to remove and contain asbestos in our Federal buildings across the United States. We have done over one-half of the proposed buildings, and we are continuing to work.

We just recently approved a new procedure which enables us to install sprinklers in buildings, without having to perform total removal of asbestos. This will help costwise.

Senator MIKULSKI. It is also health and safety. With asbestos, you would have to move your workers out, go in and clean it out.

Mr. HOWARD. Asbestos is one of the major concerns of GSA tenants. I was regional administrator of HUD in San Francisco, located at 450 Golden Gate Avenue, which is one of the worst asbestos problems that we have. Communications with our tenants is most important, both about testing and so that they feel that we are keeping them informed as to safety, and so forth.

We do have an asbestos policy. We are proceeding as quickly as we can. We do at this moment put fire and life safety concerns first, and we do have the resources to proceed with those projects.

Senator MIKULSKI. When you do the reprogramming on this, I think we are extremely interested. I view maintenance as one of our most important missions for two reasons. One is the safety of our employees, but there is something about morale.

One of the things we know in terms of productivity in the work force, if the elevators don't work, and the johns don't flush, you think you are second rate. I want to work very closely with you on this one.

CHILD CARE

The next question, and really my last, is the area of, again, work force readiness, the fact that women are in the marketplace and we are here to stay. With the labor shortage that we will be facing in the future, the issue of day care looms as a very serious one.

We understand that Mr. Golden appointed a Federal day-care coordinator within GSA. Could you tell us who he or she is? What they are doing, and then what your plans are to meet some of these challenges.

Mr. HOWARD. Senator, I would be more than happy to. Barbara Leonard, who is the former regional administrator for GSA in Boston, was appointed by Terence Golden as the national child care coordinator. She reports directly to the Administrator.

She has been doing two things. One, she has been traveling across the United States, visiting the GSA regions, and working with the CASU's, the Federal executive boards, and the regional administrators in GSA and other agencies to promote child care awareness.

On the other side of that coin, the Public Buildings Service was charged by Mr. Golden to open 25 new child care centers this year.

We have been building out the child care space similar to general office space. About the only additions have been child-size lavatory facilities and cabinets. Any of the additional amenities, stoves, refrigerators, and so forth, are provided by the sponsoring groups. We help coordinate and help recommend sponsors.

Senator MIKULSKI. You don't operate day care. You turn it over.

Mr. HOWARD. That is correct. We turn it over to sponsors and providers of child care.

We are on target. We have 42 sites that we have identified. Last year, we only opened three. This year we expect to open 25 or better, with the possibility of 34. The agencies then pay rent for that space that has been built. PBS was charged with the job of opening those child care centers.

Senator DECONCINI. Would the Senator yield?

Senator MIKULSKI. I will be glad to.

Senator DECONCINI. Did I hear you say 34 new centers?

Mr. HOWARD. Yes; that is a possibility, but we expect to open, at a minimum, 25 child care centers this year.

Senator DECONCINI. In Federal agencies?

Mr. HOWARD. That is right.

Senator DECONCINI. Congratulations.

Senator MIKULSKI. As part of last year's subcommittee, we asked OPM to begin to study Federal day care needs, in other words, to take a look at the work force not only in terms of onsite day care, but essentially the day care needs—after school, how we could work with other Government agencies.

Have they consulted with you in this endeavor?

Mr. HOWARD. We have had some consultations with them. We have also worked with Ken Rashid, the Assistant Commissioner, who I have placed in charge of the child care endeavors for GSA.

Senator MIKULSKI. The guy who works with Barbara Leonard.

Mr. HOWARD. That is right. PBS works with Barbara Leonard. PBS has the staff in the central office. We have set up the coordinators in the regions. Each region, besides working with the regional administrator and assistant regional administrators, also has a child care coordinator.

We have had contact with HHS. We have been working on a memorandum of understanding regarding child care.

CHILD CARE USERS

Another concern that the Office of Management and Budget has had, and rightly so, is identifying who is getting the benefit of child care. Are we, in fact, only provided child care for the higher income, higher grade people?

We have recently done a survey and a study, and we find that we are providing it for all levels. We will be working very closely with OMB in regard to our child care programs.

Senator MIKULSKI. Do you find that your tenant agencies are looking forward to this, or are they reluctant?

For example, Dorcas Hardy, the head of Social Security in Baltimore, is absolutely hostile to the idea of onsite day care at Social Security, which employs a tremendous number of women, and particularly single heads of households.

Mr. HOWARD. We get mixed reviews. In the particular case that you mention, Ms. Hardy is more concerned about providing child care in or near the home. It is true that some parents and some single households would prefer child care near their homes rather than in a Federal facility, or in a downtown facility provided by a child care provider.

We have put together a needs assessment survey so that we, in fact, don't open up a child care center where there isn't a need. We have found that the need exists in almost all of the areas where we have conducted the surveys. We have based our plans for opening child care centers on our assessment of needs.

We have continued to try to convince Ms. Hardy that child care is needed and is wanted by employees on site. If there is a need, we will continue to work with her.

Senator MIKULSKI. First of all, Mr. Golden certainly was pioneering and visionary in what he laid out. I would like to ask, for the committee, for essentially a report, I am not looking for a detailed study, but on exactly what you are doing in day care—what is your management structure, what is your need, where do you do day care sites, putting in what are the obstacles, be it insurance, or something else.

Mr. HOWARD. The liabilities.

Senator MIKULSKI. Yes; the liability issue.

As we work with OPM, we might eventually come to a point where we might do a day-care voucher, we may begin to look at the overall day care needs for our Federal employees.

Onsite day care only meets a specific need for a specific age group. Hopefully, through our OPM, we can even have a broader perspective. Ann McLaughlin at Labor is going to be coming in with a day-care report. We would hope that the Federal Government could have a coordinated approach. I feel, for those of us in Government, before we ask the private sector to do something, we should be doing something ourselves.

So we would like to know what GSA has done; where it feels it is successful; where it feels there are needs they cannot meet; what we need to be looking at; and any obstacles that we might be facing such as the liability insurance issue.

Mr. HOWARD. Senator, it certainly was a major initiative of Terry Golden's. I have been personally involved with it. We have all of that information. We do brief people continually. I would be more than happy to submit a report.

Senator MIKULSKI. We would like to have a report, and then we will move on to the briefing.

Mr. HOWARD. We would be more than happy to give it to you.

Senator MIKULSKI. I look forward to it.

Mr. Chairman, that kind of wraps up the direction.

Senator DECONCINI. I want to thank the Senator from Maryland for pursuing this day care area.

There are a couple of things that I want to add. Don't forget the fathers.

Mr. HOWARD. We certainly haven't, Senator.

Senator DECONCINI. Some of them like to visit their kids, too.

[The information follows:]

GSA REPORT ON CHILD CARE

PROGRAM STRUCTURE

The General Services Administration child care program is represented by Barbara M. Leonard, Special Assistant to the Administrator for Child Care and Development, and Duncan Lent Howard, Commissioner of the Public Buildings Service. Mrs. Leonard establishes contacts and relationships with Federal managers, local Federal executive boards, cooperative administrative support units' management organizations local child care organizing committees, and the public.

Mr. Howard has the program responsibility for the child care initiative, including the development of policies, procedures, facility construction, and oversight of the program The child care program is located in PBS in the Office of Government-wide Real Property Policy and Oversight, which is managed by a senior level executive. The child care staff consists of a senior level program director, two senior professionals, and a program assistant. Mrs. Lenoard is assisted by her staff assistant and secretary. There are eight designated child care representatives in the region who are senior professionals.

DETERMINATION OF NEED

The needs assessment questionnaire form, which was developed by GSA for use by Federal executive boards and local child care organizing committees, is the agency's method for determing unmet child care requirements of Federal employees.

The GSA needs assessment questionnaire was developed under the guidance of a child care development consultant with extensive expertise in assessing the child care needs of both public and private sector employers. It surveys commuting patterns, child care tuitions costs, the expectations of the parents with respect to the developmental program, and other issue areas on which the need for the center and its projected viability can be estimated.

Upon tabulation and analysis of the results, a determination is made as to the ability of the center to attract children, the intermediate and longer-term need based on the demographics, for example, number of siblings, the projected hours of operation, the features of the program that are seen as priorities by parents, and other aspects which reflect the child care needs of this employee group. We have also inquired as to the impact that child care concerns have had on the employee's attendance and punctuallity.

The decision to proceed with the development of a center or not, along with the projected capacity of the facility, is based primarily on the results of this questionnaire.

ACHIEVEMENTS AND FUTURE PLANS

GSA has developed a needs assessment questionnaire form which provides consistency in determining the needs for and types of onsite child care centers.

GSA has provided technical guidance to those employees and Federal managers who wish to organize and develop a local child care center.

GSA is presently developing a guidebook which provides guidance and procedures for the establishment of viable federally located child care centers.

GSA has completed the needs assessment survey process in 42 GSA-controlled locations, and has initiated development of centers in many of those locations. At present, we project that at a minimum, 25 sites will be opened by September 1988.

GSA has initiated the development of a cooperative working relationship with the Department of Health and Human Services [HHS] to provide support service to GSA and client agencies for the Project Head Start offices.

GSA is currently establishing a nationwide reference list of child care providers to assist the local organizing committees in selecting a provider.

GSA has developed safety guidelines for centers. Also, GSA has established a process by which criminal records of provider staff members will be checked.

We will continue to broaden our focus on child care as other issues present themselves.

CURRENT PROBLEMS

In some cities where GSA is attempting to lease space to house a child care center, some lessors have refused to make offers to provide space, citing potential insurance, and legal liabilty concerns.

Some delays in the development of centers in multitenant buildings have occurred when one or more agenices do not wish to participate. It, therefore, becomes much more difficult to achieve an equitable sharing of the initial costs/responsibilities for child care if a major tenant refuses to participate.

GSA POSITION ON IN-HOME OR FAMILY-BASED CHILD CARE

GSA has not taken a position on in-home or family-based child care. The GSA needs assessment form has quetions on the type of child care arrangements presently being used by the parents and the cost of these arrangements (that is, What type of child care arrangement do you presently have? What type are you presently paying per child for child care?). These responses have been used to determine how parents' child care needs may best be met.

AT-HOME CHILD CARE PROVIDERS

Senator DECONCINI. Second, when you are involved in these analyses, do you take into consideration or ask the question about the desirability of having at-home providers, where a child is taken to a home that has been certified and approved, and left there for the period of time the parent is working?

Mr. HOWARD. Senator, I have not personally been involved on that side of it. We have been more involved in the building out of space for the facilities within the Federal buildings.

Mr. Rashid of my staff has, I think, discussed those types of questions with Congressperson Cardiss Collins as well as the Health and Human Services people. He has been involved in the child care field for some time. We will be more than happy to get that.

Senator DECONCINI. Perhaps that is more of an OPM area of responsibility.

Mr. HOWARD. Yes, sir.

Senator DECONCINI. I wonder if you are doing the analyses and surveys.

Mr. HOWARD. I don't know whether that was in our survey or not.

Senator DECONCINI. That is a growing interest, at least in my State, to do it at certified homes, which are under supervision, where you have three or four children stay with a mother, while the other parents go to work. Senator Hatch's bill, which has been introduced, targeted that approach to it versus the ABC bill that is more widespread. I don't want to forget that side of it.

Senator MIKULSKI. Senator DeConcini, as you know, GSA doesn't provide free day care. You provide space and you have a private provider or nonprofit private organizations actually administer it and they must meet all certifications at the State level, and so on. Therein comes in who can afford to do this. This, then, goes to what I was trying to get Connie Horner to focus on, what should we be doing.

Senator DECONCINI. For the employee.

Senator MIKULSKI. Exactly, Senator. For major employers, like Social Security, even running an information and referral of available day care, requires a difficult policy decision. What is our policy going to be as an employer.

Senator DECONCINI. I think the Senator from Maryland is correct, we need to address this and so does OPM.

My concern was that they are doing a survey here, and maybe they could pick up that information. If it is inappropriate, I will rest with your judgment on it.

Mr. HOWARD. We will take a look at it.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. This concludes the questions I have. I will submit the balance. Senator Domenici has questions, and perhaps other members.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

FEDERAL PROTECTIVE SERVICE

QUESTION: What is the status of the Federal Protective Service security program and what steps are you taking to comply with the Committee directives contained in Senate Report 100-160, p. 105-106?

ANSWER: We have forwarded a plan, as directed, to both Houses of Congress which addresses the issues of recruitment, retention, promation, training and compensation of members of the Federal Protective Service.

Further, the core city plan continues and we are proceeding to hire FPO's to fully staff each city. We continue to encourage FPO's to move the core cities if they volunteer. GSA will pay the moving expense. However, we are readjusting our plans for noncore cities reduction and will now use attrition as the sole means to attain our goal. This would mean that FPO's still in noncore cities after September 30, 1990, may remain until they terminate employment at their own volition.

We will continue to evaluate all of our cities in light of the results of physical security surveys and risk assessment determinations, and will furnish FPO's as necessary.

As FPO's and contract guards perform different functions we do not replace FPO's with contract guards. FPO's provide the standard law enforcement function in a patrol mode, responding to the requirements of several facilities in an area. The contract guard performs a more sedentary security guard role and is decicated to a single facility.

The GSA plan does not abondon the facilities or Federal employees in the noncore cities. We have 112 professional physical security specialists working out of 57 strategically located cities throughout the 50 states, who oversee the security requirements in all areas where GSA has property. Also, we have 38 investigators in 20 cities who perform investigative services when necessary. Local police authorities are also able to respond to any criminal occurrences in these facilities. They have been doing this for some time in towns and cities where there has been no FPO presence.

The levels of January 1986, included FTE resources dedicated to such national security sites as NSA, CIA, Justice, and the Pentagon. The FTE and personnel have been transferred to those agencies who are now providing security which GSA formally provided on a reimbursable basis. It would make no sense to change these agreements at this time.

Every attempt was taken to ensure tha the program was thoroughly discussed with all parties that had an interest and would be impacted by the implementation. This included the Office of Management and Budget, appropriate congressional committees, General Accounting Office, Regional Administrators, Assistant Regional Adminstrators, union representatives, Regional Federal Protective Service officials, and various advisory councils of this agency.

DENVER POST OFFICE/COURT FACILITY PROJECT

QUESTION: Last year, Congress and the President approved the transfer of the Denver, Colorado, main post office building to GSA to be made available for use by the Tenth Circuit Courts. GAO was to determine the fair market value of the property and, with this figure in hand, GSA would pay the Postal Service for the property. What is the status of this transaction and when can we expect the facilities to be ready for the Tenth Circuit?

ANSWER: The GAO has completed its analysis of the property and has placed a $11.3 million value on the main post office building. GSA has submitted an apportionment request to OMB for the value of the property. This request is currently pending and we expect approval by the end of April. GSA has arranged to take custody of the main post office building on May 1, 1988 (subject to release of funding by OMB). USPS is in full agreement with this release. At this time, it is expected that the renovations of the main post office building will be completed and occupancy effected for the Tenth Circuit by mid-1991.

FEDERAL BUILDINGS FUND: RENTAL OF SPACE

QUESTION: Within the Federal Buildings Fund, you are requesting an increase of $41.8 million for the part-year cost of 4 million square feet of expansion space requested by Federal agencies or as a result of your own internal planning. This comes at a time when most agencies are cutting back on staff or holding the line on personnel increases government-wide. I.R.S. is one of the only exceptions to this rule, along with a handful of other agencies that have experienced some growth. Why this enormous amount of new space? What would be the effect on your operations if we were to cut back the request for "new expansion space" funding next year?

ANSWER: Of the 4 million square feet which GSA has identifed as increased space requirements, 2 million square feet of this expansion has been specifically identified by the client agencies for new or expanded programs. Most of this expansion is attributable to the requirements of the Departments of Treasury and Justice (law enforcement activities). Another 1.6 million square feet of expansion is required to satisfy the need of agencies being permanently displaced due to the expansion requirements of the Courts, the disposal of Federal property or health and safety problems in the existing space. The remaining 500,000 square feet of expansion is required to temporarily house Federal agencies during major renovation projects in existing Government buildings.

As stated before, almost half of our requested increase of space has been specifically identifed by our client agencies for their new or increased program mission. Therefore, a reduction in our requested funding level of "new expansion space" would restrict our ability to meet these program expansions and could generate a large volume of agency requests for delegated leasing authority. The approval of these would still result in expansions to the Government's overall leased space inventory.

Further, a reduction in our requested funding level could also result in our inability to acquire replacement space for many prospectus level renovation projects or relocations for safety reasons. This could delay award time frames and increase current costs estimates.

DEPARTMENT OF TRANSPORTATION

QUESTION: What are your current plans for the DOT building headquarters project and when will you know if you will actually need this D&C money for fiscal year 1989?

ANSWER: GSA has requested funds for the design of facilities which would fully consolidate the Department of Transportation's (DOT's) headquarters operations. However, a range of options is being considered, including the possible purchase of the Nassif Building or another building which would partially meet DOT's requirements. The three current leases for space in the Nassif Building expire at the end of December, 1989. These leases will have to be extended, because purchase funds for a procurement of this size are not available and more time is required to evaluate different alternatives.

Approval of GSA's $11.1 million request to begin design of the DOT facilities in fiscal year 1989 provides the maximum flexibility to address the agency's long-term housing needs. Once space requirements have been determined and the design has been completed, GSA can decide whether Federal construction, purchase, or lease construction represents the most appropriate means for procurement. Market place conditions and the availability of Federal Buildings Fund resources would be important factors in making this decision.

DES MOINES, IOWA, SKYWALKS SYSTEM

QUESTION: The Congress and the President approved a project in Des Moines, Iowa, to extend the skywalks system to the Federal Building in downtown Des Moines. The project was to be paid for out of available funds in the Federal Buildings Fund. What is the status of this project and when will it be completed?

ANSWER: The areas where all three phases of the Skywalk project are planned for construction have been identified as potential historic sites by local historic preservation officials. Apparently, they believe that it may be the site of the former Fort Des Moines. The city is currently developing a scope of work for a historic study of the site, which will include soil borings, before any Skywalk construction can begin.

Regarding phases 1 and 2 of the GSA project, we plan to utilize the city's design materials for other portions of the Skywalk system as much as possible in our own design phase. A preliminary construction cost estimate to construct the Skywalk and to alter the Federal Building to ensure appropriate access and security features has been developed. A prospectus level repair and alteration project must be submitted for Congressional authorization. The estimated construction cost is $963,000, which excludes design and construction services amounts. The prospectus is being planned for submission as a potential fiscal year 1990 project.

Regarding phase 3, GSA will begin planning for the portion of the Skywalk that will connect the Federal Building to the municipal parking facility as soon as the city has finalized its plans for that facility.

QUESTION: On page PP-24 of the blue sheets, you intend to spend $155.3 million next year on the interagency fleet management program. This program is in charge of the motor vehicle program for the government.

As you know, GSA and other agencies are in the process of soliciting bids from the private sector to see if there is a cheaper, private sector alternative to the current interagency motor pool system. I am hopeful that the vigorous competition in the private sector for this potential government business (fleet management services) will drive the cost of operating, maintaining, purchasing, and disposing of motor vehicles government-wide.

What is the status of the fleet management procurement and how are you currently handling the motor vehicle management competition that was mandated by my amendment to the Reconciliation bill of 1986?

ANSWER: In response to your first question, in December 1987, and January 1988, the first agency progress reports were submitted to the Office of Management and Budget (OMB) by GSA under the Management Improvement Program (MIP). In those reports, two agencies (Energy and AID) reported that their studies were either complete or soon to be completed. Two other agencies (Panama Canal Commission and the Peace Corps) reported that they had no studies planned since virtually all their vehicles are located overseas and there are no feasible alternatives to their current method of vehicle support. Another agency (State) probably will take the same approach on its overseas vehicles. Of the remaining agencies, Agriculture, Defense, and GSA have made the most progress. Agriculture is scheduled to issue their solicitation by this summer, as is GSA. Defense has reported that over 50 percent of its vehicles have already been studied because they have undergone previous OMB Circular A-76 studies. The balance of 12 agencies report that they are waiting for additional guidance before they will proceed.

Regarding establishment of a cost accounting system, which was also required by the Bill, four agencies (Energy, GSA, Panama Canal Commission, and the Peace Corps) either have completed a system or are close to completing one. The other 16 agencies are in various stages of work, with the Department of Commerce having the latest scheduled completion date of October 1989.

To answer the second part of your question, after issuance of the implementing regulation shortly after passage of the law, GSA did not take an active role in guiding other agencies. This was to preclude any appearance of a conflict of interest since GSA's IFMS was one of the alternatives to be studied. However, it became clear that little progress was being made by the agencies. At the request of your staff, GSA took a more active role. Two consultants were hired to develop a statement of work describing fleet services for agencies to use in comparing their operations and to develop a cost element handbook for agencies to use for the comparisons and the accounting system. The first project is virtually complete. The statement of work was provided to the private sector and the agencies for comment in February 1988. Comments have been received and will be incorporated into the statement of work.

The second project is now divided into two distinct activities following a series of meetings with the General Accounting Office (GAO). The GSA consultant will complete a handbook for agencies to use in conducting cost comparisons. The handbook will be furnished to the agencies in May 1988. The second activity will now be a joint GSA/GAO project to develop the guidelines for a standardized accounting system with emphasis on use of the Uniform Standard General Ledger. Per discussions with GAO, this will take about one year and will obviously have some impact on the agencies' scheduling of their cost accounting system as reported in the MIP.

GSA anticipates issuing its first solicitation in June 1988.

QUESTION: On page 27 of your justification white pages, you indicate that for fiscal year 1989 contract audit and contract administration expenses are estimated to be about $15 million. For this amount of money, you will collect gross receipts from overcharges totalling $57 million -- nearly 4 to 1 return.

How much would you be able to bring in, over and above the President's budget estimates, if we were to somehow double your total contract services/expenses budget for expanded collection of overcharges on transportation bills paid by the Government?

ANSWER: The Office of Transportation Audits normal workload consists of approximately 6 months of transportation bills in the queue for auditing. This level of work is considered current. The fiscal year 1989 overcharges estimated at $57 million are based on workload continuing at the current level and include all known and estimated returns. The only way to increase collections is for Government offices to assure all bills have been audited. We are in the process of doing this now, but do not believe the increased overcharges will be that dramatic.

Real Property Relocation

One of the biggest increases in your direct spending program next year is for Real Property Relocation. Your budget skyrockets from $5 million last year, to $50 million in FY 1989—a ten-fold increase in one year.

Last year, this Committee sharply reduced your request for real property relocation because it felt that much of this money was for Defense Department moves that were taken care of in DOD's own budget. We left open the possibility of entertaining a supplemental request if DOD became strapped in their relocation activities. So far as I know, no request for supplemental funding has come out of the Administration.

Question. How much of your $50 million in fiscal 1989 is for Defense-Department relocation costs and how much is for civilian agencies?

Answer. A firm list of relocation candidates is still in the process of being developed for fiscal year 1989 and we fully expect DOD to be a participant in the program.

Question. What would be the effect on your real property operations if we were to merely double last year's appropriation and give you $10 million instead of $50 million?

Answer. Since implementation of the relocation initiative is considered to be an essential component of the overall real property disposal program a reduction in the relocation funding request may result in GSA not achieving its sales receipt goal of $225 million for 1989. The relocation program is a major new initiative to improve Federal asset management and is an incentive to agencies to relocate facilities for the purpose of declaring under utilized properties as excess to achieve established sales receipts goals. As such, the relocation program is critical to the success of GSA's program.

Question. Last year, we approved not less than $1 million and no more than $2 million for a pilot project to upgrade technologically obsolete cobalt deposited in the National Defense Stockpile. Although the Stockpile management has now fallen into the lap of the Pentagon under an Executive Order, you, I assume, are still handling this project. What is the status of this project?

Answer. On December 4, 1987, Public Law 100-180 the "National Defense Authorization Act for Fiscal Years 1988 and 1989" was enacted. This law significantly changed the charter of the National Defense Stockpile Manager, which at that time was the Director, Federal Emergency Management Agency. It also revoked, effective 30 days from December 4, Executive Order 12155, which delegated to several Federal agencies, the various authorities under the Strategic and Critical Materials Stockpiling Act, and it provided that a new Stockpile Manager be named. The Fiscal Year 1988 Continuing Resolution, Public Law 100-202, which contained the pilot project for upgrading cobalt, was not enacted until December 22, 1987, at which time the newly passed provisions of Public Law 100-180 caused uncertainties as to policy direction for Stockpile initiatives.

The latest study on cobalt, conducted by an interagency-funded effort did not indicate a need to upgrade cobalt at this time, due to usage requirements and recent stockpile purchases of high-quality materials. For these reasons, cobalt has not been included in the Congressionally approved Annual Materials Plan for 1988 which serves as the basis for Stockpile transactions. At this time, plans have not been finalized for implementing this provision pending direction from the new Stockpile Manager.

QUESTION: On February 19th of this year this subcommittee wrote to GSA inquiring about the status of the FTS2000 project, and about the agency's progress toward fulfilling the mandates of the Congress contained in last December's Continuing Resolution. To date this Subcommittee has received no response from GSA. Will you now respond and report to this Subcommittee on the status of the creation of the required Interagency Management Council and the Interagency Management Task Force?

ANSWER: GSA responded to your letter of February 19, 1988, on March 28, 1988 and hand delivered it into one of your staff's hands as it contained procurement sensitive material. In that letter GSA agreed with your concern that agencies be intimately involved in the conduct and management of all aspects of the FTS2000 program.

The Senate Committee on Appropriations reinforcement of this involvement by requiring establishment of a management council and an interagency task force is welcome. GSA has encouraged agency participation at a high level throughout the life of this program. This participation prior to the recent implementation of the management council and Task Force enables GSA to assure the Committee that agencies have substantially contributed to the procurement approach.

More than 3 years ago, on February 4, 1985, GSA formed an FTS2000 Interagency Steering Committee initially consisting of the ten largest user agencies at that time:

- Department of Agriculture;
- Department of the Army;
- Department of Health and Human Services;
- Department of the Interior;
- Department of Justice;
- National Aeronautics and Space Administration;
- Department of the Navy;
- Department of Transportation;
- Department of the Treasury; and the
- Veterans Administration.

Representatives are Senior Executive Service (SES) level policy makers in each of these agencies who regularly attend Committee meetings in person, and in addition, have brought significant technical support staff to bear on the procurement.

By February 1986, membership was extended to include five additional agencies (Environmental Protection Agency, Federal Bureau of Investigations, Department of Commerce, Department of Labor, and Department of Energy) and also one member was solicited to represent all the remaining small agencies. This member was nominated by the Chairman of the small agency representation on the President's Commission for Management Improvement.

The Steering Committee has met formally 13 times over the last 3 years to discuss the conduct of the FTS2000 procurement, progress in the development of the strategy, development of the RFP, amendments to the RFP, and the evaluation process, selection and award. Each committee member was afforded the opportunity to review, comment, and provide input in detail to all procurement related documents, and many applied significant resources from their staff to this effort.

At the first meetings, committee members were invited to provide staff to support the procurement effort. Again, in November 1985, each member was specifically asked to provide two full-time staff members to participate on the evaluation team. Some members indicated an inability to provide staff members at the time and asked GSA to have the MITRE Corporation fill this role, which GSA did. More recently, in preparation of the major Amendment 8, GSA again requested support staff from the committee members. The Departments of Health and Human Services and Treasury supplied full-time staff members to contribute substantially to the development of Amendment 8. Other agencies were not able to do so.

Following your statutory requirement for GSA to form a full-time Interagency Management Council, in many ways an extension and amplification of the earlier Steering Committee activity, GSA informed the appropriate officials of the six largest user agencies on February 10, 1988, of the initial meeting scheduled to discuss their role and duties. The letter also advised the Council members of the urgency of establishing the Interagency Task Force and nominating their full-time representatives. The Interagency Management Council first met on February 29, 1988, and was chaired by former Administrator Terence Golden. The main agenda items were to establish the representation of the Council on the FTS2000 Advisory Board and to reinforce the importance of each member nominating a permanent Task Force member to serve on the Source Selection Evaluation Board. The consensus of the meeting was that the Council's representation on the Advisory Committee be:

Mr. Roger M. Cooper
Deputy Assistant Secretary
for Information Systems
Department of Treasury
15th and Pennsylvania Avenue, NW.
Room 2426
Washington, DC 20220

The Honorable
Jon H. Seymour
Assistant Secretary
for Administration
Department of Transportation
Washington, DC 20590

Mr. Donald Scott
Director of Telecommunications
US Department of Energy
MA-253 GTN
Washington, DC 20545

The individuals nominated for permanent assignment to the Task Force are:

Department of Energy
Joseph L. Carter
Chief of Computing Services

Department of Justice
Michael Wong
Communications Program Management Specialist

Department of Transportation
Barnett M. Anceleitz
Senior Procurement Advisor

Department of the Treasury
G. Martin Wagner
Director, Office of Telecommunications Management

Veterans Administration
Sherman L. Naidorf
Director for Telecommunications

Broadly, the role of the Task Force members is as follows: Two of the Task Force members are to be Chairmen of evaluation panels on the Source Selection Evaluation Board, the body that carries out the evaluation of proposals. One member is to serve as Deputy to the Cost Panel Chairman. The remaining members are assigned as full-time members of evaluation panels within that Board. These assignments are as follows:

Mr. Sherman L. Naidorf - Chairman, Technical Evaluation Panel
Mr. G. Martin Wagner - Chairman, Management and Business Panel
Mr. Barnett M. Anceleitz - Deputy Chairman, Cost Panel
Mr. Joseph L. Carter - Member, Technical Panel
Mr. Michael Wong - Member, Technical Panel

In a second, and equally important role, the Task Force members will act as technical expert advisors to the Chairperson of the Source Selection Evaluation Board.

The Management Council is expected to meet monthly with the next meeting scheduled for April 25, 1988.

QUESTION: The Ray Kline Advisory Committee is separate and apart from the mandated Interagency Management Council and Interagency Management Task Force. What is the status of those two mandated bodies?

ANSWER: I have answered that in the previous question. Both bodies are in place and working.

QUESTION: The GSA Telecommunications Procurement Programs have been mired in great controversy for some time now. In order to strengthen the future of the FTS2000 program Congress mandated that the Council and Task Force be directly involved in the work of that procurement. Specifically, the Continuing Resolution required that the Task Force be actively involved in all amendments to the FTS2000 RFP. A new RFP was issued in mid-January of this year; what was the Task Force's involvement in the development of that document, then or since?

ANSWER: A new RFP was not issued in mid-January. There has only been one RFP for the procurement of FTS2000 which was issued in January 1987 and, as stated in my earlier answer, not only the six agencies you designated but the ten largest agencies plus representation of the remaining users were involved substantially in the development of that RFP. The Task Force Members, as they have been nominated by their agencies and cleared by our Office of Ethics, have been working at the secure facility in detailed review and development of the source selection plan. In particular, the two members who are Panel Chairmen have, together with the other Panel Chairmen, been interviewing and approving their Panel Members and, according to their own wishes and priorities, concentrating on assuring that each panel has the experience and skills that it needs to accomplish the evaluation.

QUESTION: The newspapers have been full of reports on the serious scandal surrounding the conduct of the recent ETN procurement. Among the charges made in the matter, GSA has been accused of having active bias regarding some of the telecommunications competitors. Indeed, some of the press accounts report openly emotional expressions of animus by GSA against certain companies in the course of the very recent ETN protest trial at the agency. This type of environment seems repugnant to the statutory principles of full, free and open competition. If allowed to continue it would destroy the viability of the FTS2000 procurement. What is being done to rid the agency of this atmosphere, and what will be done to ensure that the FTS2000 program is competed in a rigidly objective and unbiased fashion?

ANSWER: GSA does agree entirely that if this type of environment did exist it would be repugnant to the statutory principles of full, free and open competition. GSA agrees wholeheartedly that it is of paramount importance to keep the FTS2000 process above reproach. The Administrator of GSA has marshalled the resources of GSA, and also ensured total cooperation with other parties, in determining what substance there may be behind the allegations in the press. While there appears to be a substantial question of impropriety in the ETN procurement, in large part because of the inference that can be drawn from the refusal of a GSA official and a U.S. West employee to testify, I believe that this impropriety in no way taints the FTS2000 project.

If there is any bias in GSA, it is to obtain for the Federal Government the benefits of full and open competition in the procurement of telecommunications services--an opportunity enhanced by the AT&T divestiture. I can assure you that there is no bias or animus within the agency against any telecommunications company. Moreover, when GSA's Office of the Inspector General and Board of Contract Appeals issue their findings, we will act appropriately. In the meantime, we are making every effort on the FTS2000 procurement to ensure that all vendors compete on a fair and level playing field. We have appointed an independent Advisory Committee which will oversee the selection of the winning contractors. The independent advisory committee is composed of private sector experts and representatives of user agencies. These individuals, all of whom have experience in major procurements, business, government and telecommunications, will be led by Ray Kline, President of the National Academy of Public Administration. The Source Selection Evaluation Board, which will evaluate the specifics of the FTS2000 proposals, will be staffed with individuals selected for their exceptional qualifications and extensive experience. These individuals will come from other Government agencies and support contractors, as well as from GSA.

Each member of the Advisory Committee and each panel Chairperson on the Source Selection Evaluation Board have undergone screening by GSA's Office of Ethics and Office of Acquisition Policy to protect against any real or apparent conflict of interest. All individuals involved with the procurement will submit the proper documentation to identify financial interests which would create an actual or apparent conflict of interest. Information submitted by offerors will be treated in the same manner as classified information. Its use will be restricted to individuals with a need for access. As currently required, all individuals working on this procurement will sign agreements forbidding the improper disclosure of this information. Special training regarding the legal, ethical, and nondisclosure obligations of employees will be given by GSA's Office of the Inspector General and Office of Ethics.

QUESTION: This question is broader than just the FTS2000 procurement--indeed, it relates to the basic characteristics and performance of the Information Resources Management Service (IRMS) organization.

Nearly every major IRMS telecommunications procurement over the last several years has been the subject of major legal challenge and protest. What is the agency going to do to cure the defects in the effectiveness of the IRMS organization?

ANSWER: Since 1984, when AT&T's divestiture of the Regional Bell Operating Companies (RBOC's) took effect, there has been an open animosity between AT&T and the RBOC's. AT&T views the RBOC's as a significant potential threat to their long-distance business. THE RBOC's on the other hand have little to fear from AT&T in the regulated and tariffed local service market. It is in the middle ground of the ETN procurement that the two are pitted against each other and again in the FTS2000 procurement where the RBOC's can support, through their intrastate facilities, an essential competitive element of an intercity offering. It is hardly surprising that the Federal Government market is a battleground between these two warring factions since what we do presages what other large telecommunications users may choose to do in the future. The telecommunications industry is undergoing radical change as it adapts to the competitive environment required by the Modified Final Judgement. Unquestionably, this has led to considerable litigation in the telecommunications industry--among the companies themselves and between the companies and their users. Because of the size of the Federal network and GSA's attempts to modernize it, GSA has been involved in some of this litigation including protests filed by vendors. Given this environment, the mere existence of a lawsuit is not a fair measure of management effectiveness. In fact, over the last two years, GSA has been upheld in two-thirds of the protested telecommunications procurements. Meanwhile, recognizing that in such an environment we need a stronger, better trained procurement work force, we are increasing our telecommunications procurement staff by approximately 25 percent and arranging procurement training for our technical staff. GSA has also been the pioneer of the Trail Boss Program to improve training and support for major programs. Finally, we are exploring increasing the number of legal staff allocated to telecommunications procurements.

QUESTION: The problems in the IRMS shop are not merely perception, bad press, or a litigious business environment. The problems appear to relate to the capabilities of the organization and to its management mind-set. For example, in March 1987 the Deputy Commissioner of IRMS, Dr. Bennington, testified before the House Appropriations Committee and stated that the agency was in the process of replacing the FTS telecommunications equipment of one company with that of certain other companies. Incredibly, this testimony was offered before any competitive bids had been received. Indeed, his testimony was recently cited in the ETN trial as an example of predetermined decision making. This type of bias cannot be tolerated. What are you going to do about it?

(Prior to Dr. Bennington's House testimony last year, the only instance of changing FTS equipment contractors had been the noncompetitive award of four FTS switches to U.S. West. The justification for the sole source action had been cost savings. In fact, today those four switches are the most expensive of all of the FTS network. His explanation in his House testimony was that the agency was in the process of replacing AT&T FTS switches with RBOC switches in order to achieve cost savings. The actual competitive bids to pursue that objective nationally were not received by GSA until one month after Bennington's testimony. That is the procurement (ETN) which has been in trial this year before the GSA Board on charges of bias, bid-rigging and a predetermined outcome.)

(House Appropriations Subcommittee, Treasury, Postal Service and General Government Hearing of March 3, 1987; Dr. Bernard Bennington:

> "...we have begun to look at where we can replace switches, and we are replacing the AT&T switches we have had for 25 years in many cases with the switches, digital switches provided by the Bell Operating Companies.")

Bennington also claimed that GSA was doing this in order to get "better information management data". In fact, the RBOC switches have provided less data and GSA has turned to AT&T for assistance.)

ANSWER: The procurement of four switches from the Regional Bell Operating Companies replacing costly, aged AT&T switches in Denver, Albuquerque, Phoenix, and Salt Lake was a competitive tariff selection accomplished after proper notice in the Commerce Business Daily. All potential offerors, including AT&T, were afforded opportunities to respond. AT&T chose not to submit a proposal and, in point of fact, AT&T never protested those awards--so we must deem that they were satisfied not to compete.

The fair and open procurement of these four switches represented major savings to the taxpayer at the rates then in effect--the only basis upon which comparison could be made. The annual cost of the existing AT&T switches (including the Denver switch whose technology dated back to the 1940's and was a troublesome switch, yet was leased to us at rates similar to proper new technology) was $8.2 million. The annual cost of the replacement RBOC digital switches was $5.7 million representing an annual savings of $2.5 million or 30 percent at contract award. The fact that subsequent legal challenges by AT&T forced the RBOC's to increase their tariffs to the Government is regrettable, but could not be anticipated nor would it have indeed been proper to speculatively assess at the time of award. The RBOC's have not been alone in increasing their tariffs. AT&T, for example, has implemented since October 1985 no fewer than 15 major tariff increases to the Government for the FTS totaling approximately $30 million. This uncertainty and instability as to the cost of services is unfortunately the price all users of telecommunications, nationwide, private sector as well as public, are having to pay in the immediate post-divestiture years. This, indeed is why FTS2000 is so important--we seek the stability of fixed prices that the vendors, without contractual requirements are unwilling to provide us.

Concerning your statement that "the RBOC switches have provided less data and GSA has turned to AT&T for assistance," this is simply not true. We have never received less data from the RBOC's than from AT&T. The switches provided by U.S. West were Northern Telecom DMS-100/200 digital switches entirely capable of providing the necessary traffic data. The problems experienced were with interfacing an intended customer administration center provided by AT&T. Incompatibility with the AT&T equipment caused GSA to investigate an alternative with AT&T to correct the problem as quickly as possible.

Concerning Dr. Bennington's testimony, AT&T did allege in the recent ETN protest that, in testimony before the Subcommittee on Treasury, Postal Service and General Government of the House Committee on Appropriations in March 1987, Dr. Bennington implied that GSA was replacing "existing AT&T provided CCSA switches on the current FTS network with RBOC digital switches." AT&T misconstrued GSA's resolve to replace the old switches with new technology as a predetermination not to award to AT&T, if possible. The record demonstrates that AT&T has always been given the same opportunity as the RBOC's to offer new switches and new technology.

Dr. Bennington explained his testimony before the Subcommittee when he was asked at the hearing to comment on his statement "[w]e are replacing the AT&T switches," Dr. Bennington explained:

> ". . . Mr. Akaka had asked me a question about whether the system was an old one or a new one and what we were doing with it, as I recall. He had asked me: "The system that is being used today, is it a transition system, or is it an old system?" And I was taking the opportunity to tell him about the many things we had done during the 1980s to extend the system life, cutting costs,

> improving quality, and I was giving him a rundown of all of the things that we had done in that arena, as opposed to FTS2000.
>
> And as we had just completed in the previous year the implementation of the four switches in Denver, Albuquerque, Phoenix, and Salt Lake, I was taking the opportunity of telling him that, in fact, we were doing that."

At that point in time (one month before receipt of bids on the ETN project) indeed the replacement of these four AT&T switches with RBOC switches was the only replacement then in effect. The fact that GSA decided to achieve cost savings on the network by competing the replacement of the network switches does not evidence a bias toward AT&T or suggest a predetermined outcome. Dr. Bennington's March 1987 testimony, in the context it was given, was for historical purposes regarding what was occurring while the network was in transition. In response to cross examination at the hearing, Dr. Bennington stated that the purpose of the ETN procurement was to cut the cost of the network, and it was not his intention nor GSA's to favor a particular vendor.

GSA was dissatisfied with AT&T's performance on the FTS in 1985 and AT&T acknowledged the dissatisfaction of GSA and AT&T's own failure to provide certain services to GSA. AT&T, in a letter to Dr. Bennington of November 21, 1985, regarding network optimization stated the following:

> "Although I am fully aware of our [AT&T] failure to adequately respond to your needs in the past, I am convinced that such is no longer the case. I hope you will agree that the plans outlined above signal a significant corporate commitment to the GSA as a preferred customer."

Despite AT&T's admittedly unsatisfactory performance on the FTS, GSA in July 1986 was willing to go forward with the network optimization proposed by AT&T. Such action on the part of GSA (and Dr. Bennington in particular) hardly indicates a bias.

QUESTION: With the departure of Administrator Golden, who is now in charge at the agency? Mr. Golden was to be the Source Selection Authority on FTS2000. Who is the new Source Selection Authority?

ANSWER: The acting head of the agency is John Alderson, Jr. He was designated as Acting Administrator on April 1, 1988, and has been acting head since that date. At this time confirmation hearings have not been scheduled. However, as Administrator of the agency he will be the Source Selection Authority for FTS2000.

QUESTION: Any void in leadership at this stage of the FTS procurement could be most damaging to the long term viability of the procurement. Given the fact that the Board's decision in the ETN case will not be forthcoming until mid-May, wouldn't it make sense to pause the procurement until that major decision is handed-down and we know the ramifications of the Board's determinations? Or has the agency decided to roll the dice and proceed? Does not such a decision threaten the long term viability of this procurement?

ANSWER: At no time has GSA or will GSA gamble with the taxpayers' money. The FTS2000 has been, is, and will continue to be a well thought out, carefully controlled project. The project team assigned to it encompasses not only the highest level and capability that GSA can marshal, but from the beginning has also heavily included the agencies (as I stated above) and the vendor community.

In developing FTS2000, GSA took a thoughtful, considered approach that drew into the development of the specification and strategy the widest possible constituency of interested, contributing entities. Users were actively represented through the senior executive steering committee representing all agencies. Industry was the main architect of the specification through major efforts to refine the initial strawman specification into the final RFP. In addition to GSA's own internal strategic studies of alternatives, costs, benefits, policy impact, and analyses of the industry direction, GSA together with OMB sought even further validating mechanisms.

In 1985, a panel of nationally renowned experts was drawn together to examine alternatives prior to recommending the final course of action to the Administrator of General Services. This panel heard arguments supporting a variety of alternatives, heard expert input as to the direction of the industry, and heard input concerning the proposed FTS2000 strategy. As part of this process (which included participation by users and OMB) an expert company was solicited competitively to reexamine the alternatives and validate GSA's analyses. This company's report endorsed the approach of buying fully integrated data and voice services and rejected approaches of dedicated Government networks whether agency or centrally based. The contractor's input to the panel recommended, not on a cost savings basis, that there might be more than one award considered under essentially an FTS2000 approach. This recommendation for multiple awards was intended to improve ongoing competition throughout the contract life, but its cost would have been more expensive network economics and a more difficult transition and management process. In light of these difficulties with multiple awards, the panel unanimously recommended to the Administrator of General Services the single vendor approach. As you are aware, most recently GSA committed to pursue the multi-vendor approach in light of the need for a consensus among industry, agencies, the Executive Branch, and Congress concerning the procurement. We are currently pursuing a multi-vendor award under FTS2000.

GSA relied heavily upon the telecommunications industry to develop an effective, competitive approach. A draft RFP was issued to industry for comments twice, and many of the comments received formed the basis for the innovative approach being used in FTS2000. GSA has also provided amendments and over 100 pages of answers to vendor questions since the RFP was released. During 1986 the Administrator of General Services personally met with the chief executive officers (CEO's) of eight major companies that worked with GSA to develop the final RFP. These companies have collectively invested half a million staff hours (over $20 million) in this project, and are committed to it at the CEO level due to the magnitude of the potential business involved.

With such a background you can see that this is hardly a "roll the dice" effort and, as stated previously, we see no persuasive cause at this point in time to delay this important project any further.

QUESTION: One of the chief areas of public and Congressional concern relates directly to the question of the assurance of integrity in GSA procurements. Will you detail for us now what is being done to assure the security and integrity of the proprietary bid information being submitted in connection with FTS2000?

ANSWER: GSA has made plans to protect all proposal information, pricing and technical, to the same extent as classified material at the secret level. The material will not be classified, but will be controlled under the equivalent procedures. A secure facility cleared at that level has been obtained and pricing information will be isolated from technical information physically within the facility. There will be electronic security surveillance of the pricing area and controlled coded access to that area. There will be key control and physical surveillance of the technical area. All access will be on a need-to-know basis and restricted to the evaluation team. This will also apply equally to the Source Selection Evaluation Board, the Advisory Board, and the Source Selection Authority. All computer-based information will be encrypted and communications physically restricted to a local area network and terminal system within the confines of the facility and cleared for classified work. All data center personnel are so cleared and all data center operations are controlled coded access and subject to electronic surveillance. Access to the classified facility and to information within that facility are on a need-to-know basis only.

QUESTION: The FTS2000 RFP issued just 90 days ago says that GSA will take the "usual steps to maintain the confidentiality of any pricing information submitted..." It would appear that "usual steps" have been grossly inadequate in the past. Is it your testimony that the agency is modifying its security practices as a new agency policy, or that it has now decided to take additional measures in this procurement, or that the security plans are business as usual as the RFP indicates?

ANSWER: Amendment 8 to the RFP was released on January 28, 1988. A portion of the amendment stated that the government will take "the necessary and usual steps to maintain the confidentiality of any pricing information submitted by the offeror prior to award of this contract." (Emphasis added.) GSA has believed since early last year that additional security procedures are necessary for the FTS2000 procurement and was in the process of developing and implementing these additional procedures (described in the answer to the previous question) prior to the ETN allegations.

I would add that the evidence presented in the ETN case before the GSA Board of Contract Appeals does not support the contention that GSA's controls were "grossly inadequate."

QUESTION: The 1988 RFP also states that the FTS2000 competitors are advised that while the Government will attempt to maintain the security of proprietary pricing information after contract award that such post-award security will not be assured. We do not see how that type of statement can be acceptable to any of the parties, including the taxpayer. It has been our understanding that there will be periodic recompetitions between the two FTS contractors throughout the life of the program. Is that not true? Is it not also true that GSA is asking competitors to submit 10-year pricing now, up front? How, then, can the integrity of the recompetitions in the out-years be assured if the proprietary prices are compromised before the recompetitions can even take place?

Surely the agency must take steps to guarantee long-term security.

ANSWER: As I have stated above, in an early decision in 1987, GSA made plans to protect all proposal information, pricing and technical, to the same extent as classified material at the secret level. The material will not be classified, but will be controlled under the equivalent procedures. This will ensure the security of information during the evaluation. After evaluation and award there will be a need to use the materials in the winning proposals to properly administer the contract. This information will also be controlled.

QUESTION: How will bids be handled when they arrive? Are you taking the bids in hard copy or on tape, or both? If both, why? How will each be secured?

ANSWER: Amendment 9 indicated that materials are to be delivered into GSA's hands at the secure facility where they will be immediately placed under the secure protection procedures and logged into the secure materials control system.

FTS2000 RFP Paragraph L.36 states: "Ten copies of each volume, including appendices, shall be submitted plus one copy of magnetic media/computer system. ... each volume shall be separately bound." Bids will consist of and be received both in hard (printed) copy and tape. Printed copy is required for the technical proposal and will consist of thousands of pages of material. Magnetic tape is required as a major part of the cost submission and will consist of the returned traffic tapes, prepared by the Government, with offeror provided pricing added for each element of the required pricing tables. This is a voluminous file only suitable for computer processing.

Any media (i.e., proposal volumes, magnetic tapes, computer listings, diskettes, etc.) containing proprietary information to the FTS2000 procurement will be entered into the MITRE Washington classified document accountability system and given a unique identification number to ensure positive control. Document Control utilizes a computerized system in which all proprietary and classified documents are controlled. The document accountability system generates a receipt for each controlled document. The system allows distribution of accountable documents only to designated recipients. Complete inventories can be printed immediately. This on-line document accountability system allows one to know the exact status of all controlled documents at any point in time. Access by Document Control personnel will be limited to designated personnel. These individuals will control all FTS2000 related documents, enforce security procedures, conduct inventories, perform inspections, check ADP audit trails, and be available to assist and advise on security matters.

QUESTION: Who will have access to the proposals? How will such access be controlled?

ANSWER: All access to proprietary and sensitive information by the FTS2000 Source Selection team members will be on a strict need-to-know basis. Designated and cleared MITRE employees will have custodial responsibility for limiting access to such information. They will ensure that personnel are on the access list before granting access. Only MITRE employees will be accountable document custodians. The MITRE custodian will conduct an inventory every morning to make sure all documents are in their custody. Authorized team members will draw required material during the day and return the material at the end of the day to the appropriate MITRE custodian.

QUESTION: What guaranteed procedures are to be implemented to ensure that proposals are never photocopied or taken home as occurred in ETN?

ANSWER: Reproduction of proprietary and sensitive documents must be approved by the Chairman of the Source Selection Evaluation Board. Reproduction will be accomplished only by one (1) designated copy center operator using reproduction machines approved for that purpose. Reproduction will be accomplished in a designated copy center by the assigned copy center operator. All reproductions will be coordinated with Document Control. A team member or a security representative will be present and supervise all reproductions. Reproduced copies will be controlled the same as the original. Reproduction residue will be destroyed in accordance with procedures for the destruction of classified material. Finally, there is an absolute prohibition against removing sensitive materials from the facility.

QUESTION: Will proposals be secured only during evaluation periods or from the time of bid receipt onward?

ANSWER: Proposals will be secured at the MITRE Washington Center from the time of bid receipt to contract award. Following contract award, MITRE will turn over all proposals and procurement sensitive materials to GSA. To do this MITRE will use procedures appropriate for the handling of materials classified Secret.

Following the evaluation period, protection of vendors proposals will differ depending upon whether they win or lose. Preparers of losing proposals will be asked whether they wish their materials returned to them. If so, all copies with the exception of one for procurement record purposes will be returned via security procedures similar to those outlined above. If losing vendors do not require the return of the materials, all copies except the single record copy will be destroyed per the procedures for destruction of materials classified as Secret. The remaining single record copy will be stored until seven years beyond completion of the contract in a secure vault with access limited to authorized persons with a need to know. Such authorization and need-to-know is only envisioned in the case of protests, court actions, or other questions concerning the propriety of award.

Winning proposals will be used by the Government for a variety of purposes. First, a single complete copy will be retained for procurement record purposes and treated as described above for losing proposals. The technical proposals will be used by Service Oversight Center (SOC) staff in managing the transition and in subsequent administration of the contracted delivery of services. These proposal materials where marked by the contractor in accordance with FAR 52.215.12 will be identified as "Sensitive" and maintained only in the SOC. The SOC will be an isolated facility designed to accommodate sensitive and classified materials as necessary, as described in the RFP sections C.4.4.1. Service Oversight Center Options, C.4.2.2.2.5. Protection of Classified and Sensitive Materials, C.6.2.2. Protection of Classified and Sensitive Materials, and C.6.2.3. Data Base and Information Processing System Protection. All SOC staff will be briefed at regular intervals in the treatment of sensitive materials, and all reasonable efforts will be made to protect the distribution of these materials as is appropriate restricting their use to Government for conducting specific activities. If the winning vendors feel that individual items within their technical proposals will require further protection, then they will be asked to identify and justify these after award and appropriate protection will be implemented. Vendors will be asked to bear the cost of this additional protection if warranted and agreed to.

The winning price proposals will be used by the SOC staff and by FTS2000 users in the planning and management of service use. Concerning GSA's SOC staff use, GSA will restrict pricing information for other than the current 12-month period to authorized planning staff located at the SOC. This information will be marked sensitive and will be managed the same as the technical information, described above. Pricing information will not be released for more than the current year plus four years. Pricing information beyond that period will be located in the secure vault with the record copies of losing vendor proposals. As regards release of pricing information to user agencies, prices for the current 12 months will be made generally available to all users on an uncontrolled basis as will aggregated information concerning overall anticipated savings for services for the whole contract term. Concerning the release of pricing information beyond the immediate 12-month period, the Paperwork Reduction Act requires that agencies plan information activities five years ahead. Hence, pricing information for the current and subsequent four years will be made available to agencies, on request, at the beginning of every fiscal year for planning purposes. Where possible GSA will process this information for agencies and only provide them with aggregated information to avoid their having to manage the secure protection of detailed pricing information. However, where an agency requires the detailed five year information, this information will be also designated as sensitive and released only to agency representatives authorized by their single official identified under the Paperwork Reduction Act. The agencies will be expected to manage this sensitive information in a similar fashion to that of GSA. In order to ensure this, GSA will arrange for suitable training of agency staff in the handling and protection of sensitive materials, will assist in the establishment of appropriate systems and procedures, and will require agency certification that the protection is equivalent to GSA's.

QUESTION: What personnel will be allowed in the physical areas where bids are kept and/or worked on? How will such procedures be policed and enforced? Will visitors be allowed in the secured areas, and, if so, by what criteria? Should not access be restricted to need-to-know personnel? Will there be sign-ins and sign-outs? Will Protective Service or other security personnel be present at all times?

ANSWER: Only source selection team members and authorized support personnel will be allowed in the secured areas. They will be issued MITRE picture badges which will be valid for the duration of the procurement. Team members will be identified to MITRE by the Chairman of the Source Selection Evaluation Board.

The doors to the work areas will be checked periodically and at random intervals after normal working hours by members of the MITRE guard force to ensure that the doors are locked. If found open and unattended, designated individuals will be notified and a locksmith will set the combinations to all combination locks and will provide the combinations only to designated individuals. Only those designated persons identified separately to MITRE Security by the Source Selection Evaluation Board (SSEB) Chairman will be provided keys and/or combinations to the respective work areas. Upon opening or closing the vault for the Cost Panel, the central alarm monitor must be notified in order to deactivate/activate the vault alarm system. All documents containing proprietary proposal information and sensitive cost data must be stored in the provided safe files when not in actual use.

Visitors will not be allowed into the secured areas. All participants involved in the evaluation, review and award process will be provided a detailed briefing regarding physical security prior to obtaining access to documents containing confidential commercial or sensitive procurement information. A formal acknowledgment of an understanding of the requirements will be required.

QUESTION: What disclosure and certification requirements will be levied on personnel who have access to the areas and or materials? What disclosures and certifications will be levied on procurement, evaluation and management personnel?

ANSWER: All FTS2000 acquisition participants will be cleared for potential conflicts of interests by a GSA Deputy Standards of Conduct Counselor from the Office of General Counsel. To effect clearance, Government participants will be required to sign the "Certification Regarding Conflict of Interest," "Certification Regarding Nondisclosure of Information," and to submit current employment and financial disclosure statements, using GSA Form 2158, "Statement of Employment and Financial Interest," that are applicable for purposes of the FTS2000 acquisition. For regular Government employees, completion of this form is intended to be an update of any financial interest report they may be required to submit and is not intended to take the place of any other reporting requirements established by law, rule, or regulation. Technical support contractor personnel shall submit such nondisclosure and certification regarding conflict of interest statements as have been agreed to by the Government and the contractor in accordance with the procedures prescribed by such agreement. All participants shall keep conflict of interest and financial disclosure documentation current until the completion of the FTS2000 acquisition or termination of their duties.

QUESTION: Will all documentation, files, notes and other materials be retained and secured? All work sheets, memoranda, instructions and evaluation materials? How will these materials and documents be secured?

ANSWER: All procurement sensitive documents generated by work on the FTS2000 evaluation will be entered into the Document Control accountability system, and subject to the same control as proprietary documents.

QUESTION: In a recent decision by the GSA Board of Contract Appeals a major Treasury Department telecommunications procurement, for which GSA has given a formal Delegation of Procurement Authority. The flaw in that procurement was that the formal bid evaluation criteria were found to be significantly inadequate, imprecise and poorly defined. Similar flaws are said to exist in the FTS2000 RFP. What is the agency doing to revise and strengthen those evaluation criteria so as to reduce the likelihood that the FTS awards would one day be overturned on the same grounds?

ANSWER: The decision in the Treasury Department's telecommunications procurement protest was issued by the General Services Board of Contract Appeals (GSBCA) under a protective order which is still in effect. That order limited dissemination of the opinion to those individuals covered by it. Due to our interest in the procurement, GSA requested access to the opinion so that it could ascertain what, if any, flaws were found in the Treasury Department's procurement which might also exist in similar GSA procurements. Access to the decision was limited to two individuals of the Office of General Counsel, who assisted the procurement staff in a review of current telecommunications solicitation documents. GSA believes that the FTS2000 evaluation criteria and methodology are consistent with the Federal Acquisition Regulation, and appropriate decisions of the GSBCA and the Comptroller General.

QUESTION: This leads us to a major policy issue which was hotly debated last year, and which we understand has been definitively resolved. However, it would be helpful to the Congress if you would now clearly reaffirm the policy decision of the Federal Government regarding the question of multiple vs. single vendor contract awards in FTS2000. Is the Subcommittee correct in its understanding that:

- FTS2000 will be awarded as two prime contracts?
- That the two contract awards will comprise networks for approximately 60 percent and 40 percent of the Government's comprehensive FTS requirements, respectively?
- That, as referenced earlier, there will be periodic, scheduled recompetitions between the two FTS2000 contractors to determine who will be responsible for the 60 percent and 40 percent portions respectively?

ANSWER: It is our intent to make awards to two independent contractors. The two contract awards will be for two ubiquitous, nationwide networks specified in the RFP. These two networks were derived from an approximate 60 percent/40 percent division of FTS voice grade traffic as of February 1986, with the traffic allocated on a whole agency basis. It is also our intent to maintain two independent contractors for the ten-year life of the contracts. GSA will conduct price redeterminations with the two FTS2000 contractors during years four and seven of the contracts. The price redeterminations will be based upon proposals submitted to GSA by the two contractors. The proposals will contain new prices based upon requirements specified by GSA for possible reallocation. GSA will select these requirements between the two networks using a target 40 percent of each network's estimated revenue over the remaining life of the contract using prices then in effect and usage forecasts developed by GSA. GSA will reallocate the requirements between the two vendors based upon the new prices submitted and quality of service during the preceding phase of the contract.

QUESTION: One of the principle objectives for the FTS2000 program is to save money for the taxpayer. Moreover, the FTS2000 project is designed to get the Government out of the network management business and, effectively, to contract-out many of the Government's previous telecommunications management functions. How many IRMS positions do you plan to abolish as a result of implementation of FTS2000?

ANSWER: The management of FTS2000 will require skilled resources. The Government is at a disadvantage in hiring and retaining skilled technical and managerial resources and contracting out is only a partial solution. The Government must have the in-house expertise to judge the quality of contractor performance, the contracting and legal skills to administer the contract, and the managerial capability to direct, coordinate and control the use of both contractor and in-house resources. As a consequence, GSA has formulated a structure that:

Provides a focal point for program management. Management of the program lies with GSA. GSA will direct, coordinate and control the use of both contractor and in-house resources. It will retain the technical, contracting, legal, and financial management skills needed to administer the contract and manage the overall program including agency participation. It will supplement its internal resources with contractual support as required. This function will always be staffed by Government personnel within GSA.

Maintains a necessary core of Government technical staff. GSA fortunately has skilled and experienced staff in the current network services organization. As they continue to upgrade and improve the current FTS, during the transition GSA staff will take on the oversight-related tasks associated with FTS2000. It is our intention to retain the current staff, and either acquire additional new skills as attrition takes place or provide training as appropriate during the transition to FTS2000.

Relies upon contractors to carry out technical assistance and management services tasks relevant to FTS2000. The first of what will be a series of technical assistance and management services (TAMS) contracts was awarded in 1984 and is completed. The second, of 5 years duration, is currently being competed. Others will follow as needed. The TAMS contractor's duties are to undertake, or provide expert help solely in, the analysis of items relevant to FTS2000. Tasks will typically result in the provision of recommendations, specifications, or other analytical products.

Develops a long-term relationship with a Federally Funded Research and Development Center (FFRDC) to support GSA's business and technical management functions. The FFRDC role will be to provide whatever support GSA needs to identify problems, reach conclusions, take action on appropriate recommendations, or take other decision based actions. This will include:

- problem analysis and definition
- independent assessment of TAMS recommendations
- independent evaluation of TAMS or FTS2000 contractors performance or service delivery
- expert input to GSA decision process
- analysis and recommendations for necessary changes in any aspect of contract strategy or service delivery strategy in FTS2000.

The TAMS contractor will be excluded from such activity.

Provides for external review and oversight to ensure that FTS2000 is responsive to user needs and interests. The Management Council, established in 1988 to advise and oversee the FTS2000 procurement, will continue as an ongoing activity through the life of the FTS2000 contract. It is expected to continue to be constituted of the telecommunications policy makers in the larger user agencies.

The requirements analysis that led to the FTS2000 RFP shows an expected average increase of service delivery of 43 percent in the phase following transition. This will be mainly due to the provision of additional services such as switched data, packet switching, video devices, and other services. GSA, however, does not plan to increase staff and the additional work level and complexity of service will be handled though the TAMS and FFRDC contracts. GSA staff devoted to long-distance services today and during the transition are 223 FTE which in fact are scheduled to reduce to 211 during the post-transition phase.

QUESTION: Today the FTS user agencies are assessed heavy Subscriber Line User Charges - or SLUC - on top of each agency's FTS charge. This GSA surtax today amounts to a markup of between 35 percent and 50 percent. What reductions in actual SLUC charges do you project as a result of implementation of FTS2000 and reductions in the size of IRMS? Both as a percentage of FTS charges and in real dollars?

ANSWER: I am not familiar with such a term as Subscriber Line User Charges and only know of the acronym "SLUC" as referring to Standard Level User Charges which are the equivalent to rental rates associated with space managed by GSA's Public Buildings Service.

I am also not aware of any "surtax" or overhead applied by GSA to agency's FTS charges that would in any way approach the figures you quote of "35 percent to 50 percent." If you are referring to GSA's costs associated with the management of long-distance services in the Federal Telecommunications System, this overhead is actually only 4.5 percent. This overhead money pays for the traffic engineering, connections, and disconnections in the current network. It pays for the implementation of such cost cutting efforts as:

- Backbone I - the competition of almost 8,000 circuits that saves $9 million per year;
- Satellite circuits - competitively procured to save $15.2 million per year;
- Backbone II - the competitive procurement of nearly 13,500 circuits that saves $24 million per year;
- Automatic Off-net Program - substitutes digital intelligent switches for costly operator functions and saves $10 million per year;
- Digitalization of trunk circuits - saves $3 million per year; and
- Competitive procurement of switches, such as the ETN's, that would save the taxpayer $26 million should we be able to continue with the project.

This overhead also pays for the implementation of the engineering testing system that ensures that quality is maintained in the intermachine circuits, as well as for the national trouble handling system that responds to customer problems in placing calls and helps our engineers identify faulty components in the system so that we can deliver the best service that the current aged network is capable of.

The 4.5 percent overhead is a small amount to pay for such activities. The fact should also be noted that a significant portion of this is accountable to the FTS2000 procurement effort itself, which will save the taxpayers $150 million per year if we have no further delays caused to the program.

QUESTION: Will agency billings clearly and separately identify SLUC and other related GSA charges so that agencies may clearly determine the actual costs of the FTS2000 program? Does this Subcommittee have your assurance that such billing identification will be required in the FTS2000 contracts?

ANSWER: It is our intention to include GSA costs in the rates for FTS2000 services to ensure that agencies can clearly determine the actual cost of FTS2000 services and be able to compare these with other alternative sources for these services.

QUESTION: You are requesting a 44% increase for Central Information Services under the Information Resources Management Service. This budget goes from $11.2 million to $16.1 million between 1988 and 1989. Your justification show that this increase will be for "recompetition of existing equipment and data communications network."

Can you explain this large percentage increase in a bit more detail, and tell us what would happen if we cut the request in half next year, or reduced it below your full request?

ANSWER: GSA's internal agency information technology program consists of computer systems and a nationwide data communications network. These systems, which have been upgraded several times, are reaching the end of their system lives. We now have in progress an acquisition project to recompete the existing systems. Additional funding in the amount of $5.15 million will cover computer site preparation and parallel operation costs for transition to the new equipment. These are non-recurring startup costs for the new computer systems that are needed at the time for contract award. If the request were reduced, implementation of the new equipment would be delayed, thus requiring system users to remain on the existing equipment for a longer time. The new computer equipment and data communication facilities will accommodate the Agency's internal processing needs through the 1990's. These systems are operated on a reimbursable basis and all ongoing operational costs are charged back to system users.

QUESTION: It is my understanding that one Multiple Award Schedule vendor (Digital Equipment Corporation) has recently made its second proposal to GSA to use a commercial-type contract for sales to the Government under the MAS program. The company claims this would save the Government about $18 million on MAS purchases from that firm alone each year, in exchange for removing unnecessary paperwork burdens from the contract. Are you familiar with this proposal and would you care to comment on it?

ANSWER: Yes, I am familiar with the proposal. In fact, it is I who suggested to Digital that they submit such a proposal last year in order that we have a tangible offer to deal with rather than a nebulous set of proposed modifications. It was necessary to reject last year's offer for reasons I will shortly describe. However, this year's offer corrected a substantial number of defects in the proposal and we are now actively discussing this new proposal with Digital.

In the Digital cover letter of April 12, 1988, the projected savings to the Government of this new proposal was estimated to be $18 million in comparison to the current Digital schedule contract which is about 5 per cent of Digital's MAS sales to the Government last year. Digital did not identify the specific factors which would result in this savings and the GSA contracting official has requested an explanation of the factors and methodologies employed by Digital for developing this estimate.

Because we are in negotiation with Digital, I cannot offer any further comments regarding the specifics of this proposal. However, I can make some comments based on last year's proposal which was similar.

Last year's proposal was made to the contracting officer responsible for that vendor's products as an alternate proposal in addition to the vendor's standard response to the MAS RFP. The matter was escalated through two levels of management to the level of the Assistant Commissioner for Information Resources Procurement. After receiving a briefing on the matter, the Assistant Commissioner agreed with the contracting officer's decision to reject it. The specific reasons cited in the contracting officer's May 28, 1987, letter included the fact that acceptance of the offer would:

- Remove all clauses going to the heart of the pricing issues.

- Require the Government to relinquish those rights for critical data upon which our whole structure for negotiating a fair and reasonable price is based.

- Negate the policies put in place as a result of the 1979 General Accounting Office Report on the Multiple Award Schedule program which included criticism of the lack of data on which GSA based its multiple award schedule negotiations at that time.

Further specifics were furnished to the vendor in a July 22, 1987, letter from the Assistant Commissioner for Information Resources Procurement. The July letter included the following specifics:

- The vendor's alternate proposal cited the elimination of numerous terms and conditions related to the basis for negotiation, the price reductions clause, and by extension, the audit process.

- These terms and conditions have resulted in the recovery of over $20,000,000 from IRMS multiple award schedule vendors in the last 3 years.

- IRMS had, at that time, over $25,000,000 in claims for defective pricing data, price reductions, billing errors and other "administrative" type problems with the vendors.

- The alternate proposal omitted numerous clauses and representations and certifications, including those implementing statutory requirements to comply with socioeconomic programs, clean air and water, audit, and price reductions, among others.

An enclosure to the July letter listed for further benefit of the vendor the omitted provisions and referenced the source that required the inclusion of each. The current proposal corrects the omission of statutory requirements but otherwise appears to be the same. It will be handled under the same procedures outlined above.

QUESTION: Has GSA undertaken its own study of the feasibility of using a more commercial-like MAS contract, and the potential cost savings to the Government?

ANSWER: The report of the Committee on Appropriations of the United States Senate, S. Report 100-160, suggested that GSA examine the savings available to the Government through adoption of more commercial-like contracting procedures and the use of commercial-type contracts.

The MAS program currently embodies many of the attributes commonly associated with a commercial acquisition policy. The MAS program relies on commercial products sold in substantial quantities in the marketplace, uses commercial product descriptions rather than Government-unique design specifications, and uses the commercial distribution systems to the maximum extent. With the exception of certain small purchase techniques, the MAS program is presently more commercial-like than any other form of Federal procurement.

For several years, GSA has devoted a substantial effort to improve its MAS pricing policy and, thereby, ensure that product prices are obtained that represent the lowest overall cost consistent with the Government's buying power. GSA and industry have been attempting for some time to reach an agreement on the principles underlying a MAS policy. Public meetings have been held, a proposed policy has been published, and comments have been received from industry. We support simplifying the procurement of goods and services, provided the Government's interests are protected, and we have the ability to assure that the Government is obtaining the lowest possible fair price.

QUESTION: Will GSA undertake to do such a study or, better yet, to implement a pilot, experimental program to test the feasibility of this approach?

ANSWER: As I indicated earlier the current process Digital has initiated at our suggestion is intended to enable us to determine the feasibility of such a pilot, experimental program. In addition, to our discussions and negotiations with Digital we intend to meet with the purchasing agents of large organizations in the commercial market who buy the same vendor products we do to discuss how they carry out their negotiations, arrive at their pricing decisions and decide upon the terms and conditions of their contracts. We will also discuss with other large vendors in the Multiple Award Schedule program who must compete with Digital for Federal Government business what their interest would be in participating in whatever experimental program we may have developed by then.

Without prejudging all of the issues involved one particularly critical issue is that a Government contracting officer must have some basis for determining what is a fair and reasonable price. At present that basis is the discount from list price the vendor offers its commercial customers. Under Digital's proposal last year it offered the Government a larger discount for equipment purchase and maintenance than the prior year's agreement in exchange for omitting certain terms and conditions. These included the right to terminate a contract for default, protection from price escalations during the contract period, access to and the right to audit the vendor's records, and lower purchase discounts for some products. Our analysis indicated that the value of what the Government would give up more that offset the 20 percent discount offer in the first year.

This kind of offer is tantamount to using the prior year's sales data submission as the basis for determining price reasonableness. Each year thereafter as the vendor changes its price list and commercial discount practices the Government would have less and less of an idea of the reasonableness of the price offer. A different basis from the prior year's agreement that is equally objective appears to be necessary. Another option might be to accept such a proposal only on alternate years.

Another concept involved here that is subject to misinterpretation is that the Government is only interested in verification and auditing rights in order to recover for incorrect billings for prior purchases. Quite the contrary. It is for the purpose of insuring that current pricing is fair and reasonable. To use an illustration, a vendor was found to offer the Government no discount on maintenance for two consecutive contract years and only 3 percent in the third contract year. As a result of an audit of the discounts the vendor gave its commercial customers the contracting officer was able to negotiate a 10 percent discount in the fourth contract year. While the audit led to the recovery of funds for the first three years, it also insured the proper discount in subsequent years and certainly influenced other vendors not be careless in their pricing data submissions. The latter benefit we cannot put a price on but it certainly outweighs any billing recoveries.

In any experiment, we would not want to forego or impair our ability to obtain prices which represent the lowest overall cost alternative to the Government. It has been noted that House and Senate Conferees, in House Report 100-498, annotated Senate Report 100-160 to make it clear that the Senate Committee did not intend GSA to impair its ability to obtain advantageous pricing arrangements with commercial vendors through the use of vendor market and sales data and aggressive negotiation objectives; and GSA's attempts to obtain prices which represent the lowest overall cost alternatives to the Federal Government were supported.

QUESTIONS SUBMITTED BY SENATOR ALFONSE M. D'AMATO

QUESTION: The Senate Governmental Affairs Committee developed evidence that serious wrongdoing occurred in the Electronic Tandem Network (ETN) case. The Office of the Inspector General and General Counsel was briefed on their findings. What affirmative response has GSA made to this information, and what does GSA intend to do?

ANSWER: Based on the information developed to date, both through the separate ongoing investigations and the record established during the hearing before the GSA Board of Contract Appeals, it appears that no GSA employee, with the one possible exception, disclosed or had knowledge that proprietary information of one or more companies had been disclosed to other companies. GSA's Office of the Inspector General is continuing its investigation in conjunction with the Department of Justice. When the investigations are completed and reports are received by GSA, we will weigh the recommendations and take the appropriate actions. To do so before all the facts are in would be irresponsible.

QUESTION: Mr. Carr (you and your) subordinates testified in the ETN trial that (you) did not have specific knowledge of what was going on in that troubled procurement. If that testimony is true, then I am concerned about the accountability of management in this procurement. What steps are being taken to assure strict management control?

ANSWER: The nature of any vendor proposal during the evaluation is that it contains procurement sensitive and proprietary information. This information is deliberately restricted to the few who need to know the information in order to evaluate and make a proper award to the winning vendor. This is our policy in all procurements. Neither myself nor any of the Senior Executive Service (SES) level managers in IRMS were part of the evaluation team for that project (as is normal) and, hence, did not have specific knowledge of the details of the vendors' proposals. Neither did we seek in any way to have access to the vendors' proposals.

However, in terms of accountability, the procurement reported directly to my Assistant Commissioner for Network Services, an SES manager who was entirely and directly accountable for this procurement--as indeed was my Deputy Commissioner for Telecommunications Services and myself. In the event that investigations show management fault in the procurement, then GSA will take the appropriate action with the accountable officials.

Concerning control, all telecommunications procurements (indeed all telecommunications activities) are subjects of the annual planning process of the Office of Telecommunications Services. As such, they are not conducted unless deemed actions in accord with established policies and ones which will result in reduced costs or improved service to our customer agencies. This planning process is carried out from the branches up and includes detailed review by the Assistant Commissioner for Network Services, the Deputy Commissioner for Telecommunications Services, and my Executive Director before being approved and put in place. The Deputy Commissioner for Telecommunications Services personally reviews the progress of each program area on a monthly basis in a meeting attended by representation of management of all related program areas including long-distance services, local services, the procurement organization, the regional organization, and the executive director. In point of fact, much weight was placed by AT&T upon these meetings and the records thereof during depositions and testimony given by GSA in the ETN case indicating that they certainly recognized these to be substantial control and information meetings for management. This planning process and these meetings have been in place for the long-distance program since 1982.

This procurement, as all procurements, was developed within this planning and control framework by a broad team to ensure proper checks and balances. In fact, this procurement was the result of a comprehensive pilot program involving four switches replaced in Denver, Phoenix, Albuquerque, and Salt Lake City. The purpose of this pilot was to test the vendors' and the Government's capabilities to undertake such replacements. In addition, a comprehensive engineering and business study was undertaken to determine the correct course of action which became the ETN procurement. This was a visible effort with many players and much scrutiny. The procurement itself was conducted by a team involving technical and procurement people, each of which deliberately report to separate organizations to ensure proper checks and balances. The procurement was undertaken under our well tried policies and procedures that have resulted in many good, timely procurements. What appeared to fail was the human factor--the hardest item to control. We are as concerned as you that human frailties should not slip through established procedures and controls such as seems to have happened in the case of the ETN procurement. We will analyze very carefully the outcome of the investigations and I can assure you personally that GSA will take appropriate action once the facts are established.

QUESTION: FTS2000 bids are due on April 29th. The Board decision on the ETN case is not scheduled to come out until May 17th. Given the gravity of the charges in that case, how can you accept bids prior to the Board's determination?

ANSWER: While GSA is very concerned with the gravity of the charges in the ETN case, we clearly do not agree with the face put on this matter by the counsel for AT&T. (A copy of the GSA brief has been furnished to provide a fuller description of our position.) GSA is also very concerned with the necessity of implementing the new FTS2000 telecommunications system. Delays cost the taxpayer about $10 million for each and every month of delay and I can assure you that GSA is doing everything possible to maintain the schedule without taking undue risks that could damage FTS2000.

GSA's Board of Contract Appeals finished the hearing on the protest of the switch procurement on March 11, 1988. I understand that the Board is expected to issue a ruling by mid-May 1988. GSA's position in the hearing was to offer evidence and examine and challenge the proof of all parties, as well as to assist the Board in reaching a fair decision based on the full truth. Based on the record in the ETN case as established to date and the steps GSA has taken to ensure fairness in the FTS2000 procurement, we do not believe that there is any justification to extend the FTS2000 proposal due date.

QUESTION:

What legal ground does the Office of the Inspector General assert for declining to share its files with the Board:

ANSWER:

On March 22, 1988, the Office of the Inspector General, following consultation with the Criminal Division of the Department of Justice, formally refused the request of the Board of Contract Appeals that the OIG's investigatory records relating to the ETN procurement (ETN-87-001) be provided the Board. (Letter of March 22, 1988, from the Inspector General to the Chief Judge and Chairman of the Board; copy attached.) The principal legal basis for this refusal is the so-called "law enforcement evidentiary privilege" (also called the "investigatory files privilege"), the validity of which was implicitly recognized by the Board in its protective order of January 28, 1988 (copy attached). The existence of this qualified, common law privilege was recognized by the U.S. Court of Appeals for the District of Columbia Circuit in Black v. Sheraton Corp. of America, 564 F.2d 531, 541-547 (D.C. Cir. 1977), where the court observed: "[T]here is indeed a public interest in minimizing disclosure of documents that would tend to reveal law enforcement investigative techniques or sources." (564 F.2d at 545)

Previously, the Chief of the Public Integrity Section, Criminal Division, Department of Justice, set forth in detail his concerns about maintaining the confidentiality of the files in this investigation in a letter of January 26, 1988 to GSA's General Counsel (copy attached). Particularly in light of these concerns, which remain viable at the present time, the Inspector General felt compelled to invoke the above-mentioned privilege.

MAR 29 1988

Dear Judge Suchanek:

I am writing in response to your letter of February 29, 1988, in which you requested that the investigative records of this office relating to the ETN procurement (ETN-87-0001) be provided to the Board of Contract Appeals.

We have conferred with the Criminal Division of the Department of Justice regarding your letter and, based on the determination of this office and the Department of Justice, we must respectfully decline to comply with your request.

As you are undoubtedly aware, your request is an extraordinary one. It seeks disclosure and production of materials which are part of an ongoing criminal investigation being conducted by this office and the Department of Justice. Materials of this nature are consistently protected from discovery in civil litigation. The Department of Justice has previously written, setting forth in detail the various concerns which necessitate preserving the confidentiality of criminal investigative files in general, and those relating to the ETN procurement in particular. (Letter of January 26, 1988 to the GSA General Counsel from the Chief of the Public Integrity Section, Criminal Division; copy attached). Those concerns are no less compelling in the context of your latest request. The considerations which are the basis for the long-recognized need for protection of criminal investigative files, outlined in the Department of Justice letter, continue to apply in this case.

Of additional and particular concern is the very broad nature of your request. Compliance with a request for production of all our investigative records in this matter could, as was also noted in the Department's letter, violate strict statutory prohibitions on disclosure of information. In this connection we should point out that the statement in your letter that, "... where appropriate, the files will be held in camera and not released to the parties without your concurrence" would not, of course, relieve us of our obligation to adhere to statutory proscriptions on disclosure.

This Office and the Department of Justice are mindful of, and have sought to be sensitive to, the various concerns and interests at issue in connection with the proceedings before the Board. We also fully recognize the Board's role in adjudicating the matters before it. As reflected in the protective order which we sought and which was issued by the Board, a balance was struck so that matters within the knowledge of witnesses and parties relevant to the issues before the Board would be freely discoverable, while improper intrusion into the criminal investigative process would be avoided. Your present request, however, would call for the wholesale disclosure and production of the investigative files in this case. As we have indicated, such a request is extraordinary and it would be inappropriate and potentially violative of law for us to accede to it under existing circumstances.

We regret that we cannot be of more assistance to you at this time. If you have any questions, please do not hesitate to call.

Sincerely,

(signed) William R. Barton

WILLIAM R. BARTON
Inspector General

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

January 28, 1988

Protest of AT&T COMMUNICATIONS, INC. 1120 20th Street, N.W. Washngton, DC 20036	GSBCA No. 9252-P
Solicitation No. ETN-87-0001	Protective order
Appearances for Protester, AT&T Communications, Inc.	C. Stanley Dees, Esq. Thomas C. Papson, Esq. David M. Eppsteiner, Esq. Alexander J. Brittin, Esq. Gary H. Sampliner, Esq. Herbert L. Fenster, Esq. Robert J. Sherry, Esq. McKenna, Conner & Cuneo 1575 Eye Street, N.W. Washington, DC 20005
Appearances for Respondent, General Services Administration	Clyde C. Pearce, Jr., Esq. George N. Barclay, Esq. Frederick P. Hink, Esq. Anthony L. Washington, Esq. Edward V. Gregorovicz, Jr., Esq. Michael J. Ettner, Esq. John C. Sawyer, Esq. John E. Cornell, Esq. Office of General Counsel General Services Administration 18th & F Street, N.W. Washington, DC 20405
Appearances for Intervenor, Bell Atlantic Operating Telephone Companies	Harlan Sherwat, Esq. Robert D. Lynd, Esq. Frank K. Peterson, Esq. Bell Atlantic Operating Telephone Companies 1710 H Street, N.W. Washington, DC 20006

Order by Administrative Judge LaBella

On January 27, 1988, the respondent, the General Services Administration (GSA), filed with the Board a motion for a protective order in this proceeding. In particular, GSA "requests the Board to enter a protective order to ensure the independence, confidentiality, and integrity of the criminal investigation now being conducted and adherence to the limitations on disclosure of criminal investigative materials imposed by federal law." GSA proposed a specific protective order for our issuance. The Board convened a telephone conference at the conclusion of which it essentially granted GSA's motion, holding that the Inspector General could assert "law enforcement evidentiary privilege" or "investigatory files privilege," even though investigatory materials had been released pursuant to sections 4(a)(5) and 5(d) of the Inspector General Act, 5 U.S.C. Appendix 3. However, the Board permitted parties to file written responses no later than 10:00 a.m. the next day, for consideration prior to the Board's issuance of a formal protective order. On January 28, 1988, protester, AT&T Communications, Inc., proposed a protective order as well. Having considered the information submitted and the requirements and desires to minimize any interference between these proceedings and any criminal proceedings, the Board issues the following protective order.

Protective Order

The Office of the Inspector General of the General Services Administration may not be requested to identify or disclose any information or document it has regarding its criminal investigation of any irregularities in the procurement that led to the present protest. No employee of the Inspector General Office may be questioned about such matters. However, information and documents revealed outside of the responsibilities established under the Inspector General Act are a proper subject of inquiry.

No witness may be asked to identify any document or information as being specifically provided in connection with any criminal investigation. Further, no witness may be asked to disclose information or documents obtained solely through individuals proceeding with any criminal investigations acting in their official capacity. A witness may be asked to reveal information or documents obtained through means independent of the criminal investigation.

This protective order does not prohibit any witness from asserting any other privilege.

Vincent A. LaBella
VINCENT A. LaBELLA
Administrative Judge

JAN 26 1988

The Honorable Clyde C. Pearce, Jr.
General Counsel
General Services Administration
18 and F Streets, N.W.
Washington, D.C. 20405

Dear Mr. Pearce:

We are writing about discovery requests made by AT&T in the pending Board of Contract Appeals proceedings relating to the ETN procurement. Our purpose is to notify you of our position regarding the impact of this discovery on the criminal investigation we are supervising that relates to the ETN procurement. Our concerns fall into three areas, which we will address in turn. First, we believe that any discovery of open criminal investigative files should be precluded, as should any inquiry about the content of these investigative files or about what information witnesses provided in connection with the criminal investigation. Second, in our view the discovery requests are, in any event, overbroad because they require on their face the production or disclosure of information that, if it existed, would be protected from disclosure by federal statutes. Third, limitations on the use and dissemination of discovery materials should be imposed if and to the extent any information regarding the criminal investigation is ordered by the Board to be produced or disclosed.

As to the first point, we would argue that open criminal investigative files of the Inspector General's Office are exempt from discovery. Under the Inspector General Act of 1978, information regarding an on-going criminal investigation is protected from public disclosure, 5 U.S.C. (App. 3) §5, and the Inspector General is specifically enjoined from disclosing the identities of employees who give information to the Inspector General's Office. 5 U.S.C. (App. 3) §7(b). The clear intent of these provisions is to protect the confidentiality of criminal investigative files and to protect witnesses. Other federal statutes, such as the Freedom of Information Act, 5 U.S.C. §552(b)(7), similarly respect the confidentiality of such files, and there is a privilege with respect to the identity of informers that similarly protects the confidentiality of the identity of government sources. See Roviaro v. United States, 353 U.S. 53 (1957). Moreover, the Inspector General Act contemplates that the Inspector General's Office will be "independent." 5 U.S.C. (App. 3) §2.

The reasons for confidentiality of a criminal investigation are clear: first, to preserve the ability of the government to fully investigate and to bring culpable persons to justice; second, to protect witnesses from possible harassment, reprisal, or other undue influence; third, to protect the privacy of witnesses and those against whom allegations of criminal wrongdoing are not ultimately proved. In this particular investigation, each of these considerations applies with force because the discovery sought relates to open criminal investigative files. To allow inquiry about the information the Inspector General's Office has obtained will result in disclosure not only of the specific matters still under investigation but of the thought processes of the investigators regarding the significance of the information provided to them, the nature and scope of the investigation, and investigative techniques employed. This sort of disclosure may inhibit investigators' ability to obtain the full truth regarding the matters under investigation either because such disclosure might influence witnesses to conform their testimony to facts already reported to the investigators or because witnesses may be reluctant to provide information if they know their statements will be disclosed in the Board proceedings. Further, to the extent such disclosure may alert potential subjects of the investigation to the specific evidence collected, it may harm the investigators' ability to develop a prosecutable case.

In this regard, the harm from disclosure of the criminal investigative files themselves is paralleled by the harm that would accrue by requiring witnesses to describe the information they provided in connection with the criminal investigation. This process allows "back-door" discovery of the criminal investigative files, and thus the same inhibiting effects on the criminal investigation could ensue.

Further, the discovery requests are too broad because they do not acknowledge the limitations on disclosure that may be placed on information in a criminal investigative file. Since the discovery in the Board proceedings is an on-going process, we believe that firm ground rules regarding the scope of discovery are essential to prevent present or future problems in this area. For example, requiring an investigator to confirm or deny the existence of particular documents, or to explain that such documents exist but cannot be disclosed because of particular statutory restrictions on disclosure, would itself result in disclosure of protected information. Thus, the identity of a witness who provided information to the Inspector General's Office is protected from disclosure under the Inspector General's Act; however, if the Inspector General's Office were required to respond to an interrogatory asking for documents pertaining to communications by the Inspector General's Office with that witness, the result would be disclosure of the very fact protected - namely, that the witness provided information to the Inspector General's Office. It is clear that in any criminal investigation there are various such means by which information may be obtained, the disclosure of which is expressly prohibited by federal law. See, e.g., 5 U.S.C. §552a (The Privacy Act); Fed. R. Crim. Pro. 6(e) (grand jury secrecy). To require a response to a discovery request that confirms or denies the existence of any such information would violate the law or put the Inspector General's Office in the position of disclosing what investigative techniques it is not using, thus disclosing by negative implication the investigative means currently being employed.

We would therefore urge that a protective order be sought that imposes a hard and fast rule prohibiting discovery of criminal investigative matters, whether documents or testimony. The protective order should also limit discovery to the witnesses' knowledge of substantive facts, and excluding inquiry about the information they provided in connection with the criminal investigation.

As it pertains specifically to the discovery requests already filed by AT&T, we can point to several objectionable areas:

1. If a response is required from the Inspector General's Office as to Interrogatory No. 2, it would require disclosure of the extent and nature of the investigators' review of particular documents and of the content of interviews conducted by the Inspector General's Office in which such documents were discussed.

2. If a response is required from the Inspector General's Office as to Interrogatory No. 4, it would require disclosure of interviews the investigators may have conducted in the course of the criminal investigation, and the identity of the persons interviewed.

3. If a response is required from the Inspector General's Office as to Interrogatories No. 6 and 7, it would require disclosure of information the investigators may have received from witnesses in the course of the criminal investigation, and the identity of such witnesses.

4. A response to Interrogatories No. 8 and 13 would disclose information provided in connection with the criminal investigation. These interrogatories thus constitute "back-door" discovery of the criminal investigative files.

5. If a response is required of the Inspector General's Office as to Interrogatory No. 10, it would require disclosure of the criminal investigative files.

> 6. Requests for Production of Documents No. 1 and No. 2, on their face, would require disclosure of criminal investigative files and are not consistent with the disclosure restrictions under federal law. For example, Request No. 1 could require disclosure of the calendars and travel of investigators in the criminal investigation. Request No. 2 requests production of documents provided "by subpoena" to the Federal Bureau of Investigation, the Department of Justice, or "any governmental organization." This request might be construed to include, for example, documents provided in response to a grand jury subpoena. Federal law provides that grand jury proceedings are secret. If a response is required of the Inspector General's Office, it could require investigators to confirm or deny the existence of a grand jury investigation, and the identity and substance of documents provided to a grand jury, all of which, if they existed, are prohibited from being disclosed under Fed. R. Crim. Pro. 6(e).

Moreover, the materials generated by criminal investigators are intended for use by government prosecutors in determining whether to initiate a criminal prosecution, and for the prosecutors' use in conducting such prosecutions and ancillary legal proceedings. In this respect, these materials are prepared in anticipation of litigation and thus not discoverable. See Fed. R. Civ. Pro. 26(b)(3).

We are and have been keenly aware of the competing interests at stake with respect to the ETN procurement, and with regard to the Board proceedings we have tried to take careful, reasoned steps in response to specific problems as they arise rather than to act on generalizations and speculation. However, a critical interest at stake is the governmental and societal interest in conducting a full and fair criminal investigation of the allegations that have been made in this matter. This interest outweighs any interest AT&T can assert in obtaining the information, particularly since AT&T has the opportunity to question witnesses in the protest proceedings as to their substantive knowledge. Precluding discovery of the criminal investigation process and materials thus will not preclude AT&T from obtaining the evidence it needs to pursue its protest. We specifically note that AT&T itself has, in its responses regarding a stay in the Board proceedings, recognized the importance of a thorough criminal investigation.

Finally, while we contend that any discovery of criminal investigative matters should be prohibited, at a minimum the Board must allow criminal investigators to withhold, without describing, listing, or invoking privilege as to, information or documents that are not to be disclosed under federal statutes. That is, an order that questions and document requests and responses thereto are to be understood to refer only to information and documents not covered by a federal statute prohibiting disclosure. Moreover, if discovery is permitted over these objections, an appropriate protective order on the use and dissemination of such matters should be imposed if such discovery is permitted over these objections.

For your consideration, we have attached a suggested order regarding limitations on the discovery in the Board proceedings.

Thank you for your assistance in this matter.

Sincerely,

Gerald E. McDowell

Gerald E. McDowell, Chief
Public Integrity Section
Criminal Division

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

REPAIRS AND ALTERATIONS

QUESTION: You requested a fiscal year 1989 obligational level of $567,043,000 for repairs and alterations. What is the current backlog of R&A projects? What amount of this backlog is for health and safety related repairs and alterations?

Has consideration been given to a one-time request to take care of this project backlog, allowing future requirements to be met through agency rental payments? If not, would you support this?

ANSWER: The identified inventory of repairs and alterations work scheduled for accomplishment is $2.9 billion. Of this amount approximately $700 million is currently scheduled for fire and life safety improvements. Additional needs beyond the scheduled work are estimated at another $2.2 billion. These needs are for systems retrofit requirements, safety features, and security requirements. Overall, approximately $5.1 billion of requirements exist. These figures do not include design and management/inspection costs.

A one-time appropriation to the Federal Buildings Fund (FBF) to fund a portion of these needs would be reasonable. However, funding the total inventory would not be advisable because of the magnitude of the workload and the time required to design and award the contracts.

COLUMBUS, NEW MEXICO BORDER FACILITY

QUESTION: In late February of this year, the General Services Administration awarded a nine-month contract for construction for the new border station for Columbus, New Mexico. This would mean that the station would be completed in December of this year. Would you please update me on the status of this project. Are we on schedule to have this new border station completed by December of this year?

ANSWER: The construction contract for this facility was awarded on February 19, 1988. At this time, the project is on schedule and completion is scheduled for December 30, 1988.

Question. You indicated that in Fiscal Year 1988, the acquisition, disposal, and administration of the National Defense Stockpile has been transferred from the GSA to the Department of Defense. By what authority has the management of the National

Defense Stockpile been transferred from the GSA to the Department of Defense in Fiscal Year 1988? When did this transfer of authority take effect?

Answer. Pursuant to Public Law 100-180 the National Defense Authorization Act for Fiscal Years 1988 and 1989, Section 3203, the Secretary of Defense was designated as the Stockpile Manager by Executive Order 12626, dated February 25, 1988.

Question. When and how were the funds transferred? Since the funds for the National Stockpile Account were appropriated to the GSA for Fiscal Year 1988, what is GSA doing to assure that these funds are being expended in accordance with the relevant statutory provisions and other congressional directives?

Answer. It is anticipated that the funds for the stockpile account will be transferred to DOD by June 30, 1988, based on a determination order being reviewed by OMB.

At present, we are continuing to comply with the provisions of the Stock Piling Act, enacted appropriations language, and other relevant statutes. To effectuate the appropriate transition of the stockpile program and related funds, the GSA is working closely with DOD to assure that they are informed of all relevant statutory provisions and related Congressional directives. This would include the proper control and administration of funds for stockpile management operations. Presently, there is no indication as to whether this function will remain intact within DOD.

Question. What agencies are to be relocated in fiscal year 1989? What are the relocation costs for each of these agency moves?

Answer. A firm list of relocation candidates is still in the process of being developed for fiscal year 1989. Agencies have indicated that they must be assured that significant funding is available before committing to identifying and analyzing potential candidates.

Question. What relocation costs are paid by the GSA? What costs are borne by the agency being relocated?

Answer. Costs paid by the GSA relocation program include:

- Costs to move or repurchase equipment, tools, office furniture, etc.
- Acquisition cost of new property
- Administrative costs
  - Travel
  - Site Investigation
  - Appraisals
  - Engineering Surveys

- Cost of Facilities
  - Land Acquisition
  - Closing Costs
  - Purchase Price
  - New Construction
  - Lease Costs

- Expenses not included as relocation costs:
  - Cost to move Federal employees, including:
  - Temporary Quarters
  - Travel to new location
  - Costs to move household goods
  - Home sale expenses
  - Severance pay

Question. You indicate that as a result of these agency relocations, excess properties will be sold resulting in an increase in Government revenues. What is the projected revenue increase to the Federal Government from the sale of excess properties, net of relocation costs, and the costs related to the acquisition of new space for these agencies being relocated?

Answer. Implementation of the relocation initiative is considered to be an essential part of the overall real property disposal program. Receipts from sales of real property are targeted at $225 million in 1988 and $225 million in 1989. The relocation initiative will greatly assist in helping to achieve these goals, thereby reducing the Federal deficit. The benefits of the relocation program include reducing operating costs, replacing functionally obsolete and inefficient facilities, and improving employee efficiency. One of the primary benefits is the revenue received in excess of the relocation costs, which will exceed a ratio of 2:1. For example, a current relocation project that we are executing in 1988 involves a Department of Transportation property in Miami, Florida, with a projected return in excess of 10:1.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

COAST GUARD FACILITY, MARTINSBURG, WEST VIRGINIA

QUESTION: Please provide for the record a summary of the status of the Coast Guard project, anticipated milestone events, and schedules for completion for the Coast Guard facility to be located at Martinsburg, West Virginia. I have personally discussed this project with the Commandant of the Coast Guard, Admiral Paul Yost, and I am concerned that this project be facilitated. I am especially concerned that the special Coast Guard operational (power, communications, etc.), siting, and security features are properly addressed in the initial design and construction of the new facility. This is a matter of priority to me. I would like to have the Administrator's assurances that this project will be expedited and that the Coast Guard's concerns will be fully met.

ANSWER: Our Philadelphia regional office is working closely with the Coast Guard to develop requirements for the new Coast Guard facility in Martinsburg. All necessary specifications and requirements will be included in the solicitation for offers and all aspects of the project will be closely coordinated with Coast Guard.

The schedule for undertaking the project follows:

Advertise for potential offerors - 2/88 (complete)
Market survey - 3/88 (complete)
Refine agency requirements - 4/88 to 8/88
Issue solicitations for offers - 9/88

Analyze offers - 1/89
Complete layouts - 4/89
Award lease - 5/89
Construction complete - 3/90

ELIMINATION OF PCB's FROM GSA-MANAGED PUBLIC BUILDINGS

QUESTION: Is GSA's program to comply with the PCB regulations on schedule?

ANSWER: Yes. To date, 35 locations have had PCB transformers eliminated. Forty three projects are currently under construction and 50 projects are in the design phase.

QUESTION: Does the GSA favor a policy which avoids landfilling PCB's when other viable options exist?

ANSWER: GSA has not taken a position on this and we are not aware of any viable option which avoids landfilling PCB's transformer carcasses. In fact, recent discussions with EPA technical staff indicated that no such EPA sanctioned option was available. If it were, GSA would be interested in exploring its use.

QUESTION: Should the GSA have requested the consultants doing the evaluation work on GSA building consider, rather than ignore, the retrofilling option?

ANSWER: GSA's PCB policy since 1985 has been to permit retrofilling to a permanent non-PCB status. At the time this policy was developed, it was unusually enlightened because no proven cost effective technology to do so was yet in existence. In fact, GSA's recognition of retrofilling as a potentially viable option and our application of the technology as early as 1984 lent credibility of the technique to utility companies and others. Unfortunately, our track record with retrofilling has not been good. Our early attempts in 1984 were failures. It wasn't until late 1987 that we successfully reclassified our first PCB transformers even though we had started years before. Rather than ignoring retrofilling, GSA was one of the first users of the technology, is using it now, and will use it as we continue our PCB transformer elimination program.

However, in light of our experience, many of our regions did not require consultants to consider retrofilling unless large construction costs were involved to get old transformers out and new ones in.

QUESTION: Is the GSA going to spend $30 million more than necessary to permanently replace transformers when viable, low cost alternatives exist?

ANSWER: No. GSA has pioneered retrofilling transformers to non-PCB status, is using retrofilling now, and will use it as we continue our PCB transformer elimination program.

QUESTION: Will the GSA allow retrofilling to be considered for all PCB projects it intends to pursue from now on? If not, why not?

ANSWER: Yes, GSA will allow retrofilling to be considered as an alternative to replacement as long as the schedule for the elimination of the PCB transformer is not impacted. GSA's PCB removal program is well underway and GSA does not intend to put this program in jeopardy by changing design and construction plans or schedules which would place GSA in violation of a deadline imposed by Federal Regulations.

PARKERSBURG BUREAU OF PUBLIC DEBT FACILITY

QUESTION: I have been in contact with the Associate Administrator of Congressional Affairs on behalf of Mr. James McCutcheon regarding early renewal of the lease agreement of the Bureau of Public Debt facility in Parkersburg, West Virginia, so that the Parkersburg area may be assured of the continued employment and tax base related to this facility. The Commissioner of Public Buildings of the General Services Administration has also been contacted regarding this matter. Please provide for the record the latest information on this project and the anticipated milestone events leading to early renewal of the lease.

ANSWER: At the present time, the General Services Administration does not plan to renew the lease agreement in the near future. The current lease agreement runs until October 1994, with two five year renewal options. In accordance with the lease terms, the General Services Administration will initiate renewal action for this facility in early FY 1994.

EXECUTIVE SESSION

Senator DECONCINI. If we could now go into executive session to hear from the inspector general.

[Whereupon, at 10:30 a.m., Friday, April 15, the subcommittee was recessed, to reconvene in executive session.]

(WHEREUPON, AT 10:58 A.M., FRIDAY, APRIL 15, THE SUBCOMMITTEE RECONVENED IN OPEN SESSION)

EXECUTIVE OFFICE OF THE PRESIDENT

STATEMENT OF GORDON G. RIGGLE, DEPUTY ASSISTANT TO THE PRESIDENT FOR MANAGEMENT AND ADMINISTRATION, DIRECTOR, OFFICE OF ADMINISTRATION

ACCOMPANIED BY:

RON R. RASMUSSEN, DIRECTOR, FINANCIAL MANAGEMENT DIVISION
GREGORY CUMMINGS, BUDGET OFFICER

PREPARED STATEMENT

Senator DECONCINI. The subcommittee will come to order.

Will now hear from Deputy Assistant to the President for Management and Administration. He will be accompanied by the Director of Financial Management, Mr. Rasmussen. and the budget officer, Mr. Cummings.

We welcome you here, Mr. Riggle. If you would briefly summarize your opening remarks, we will put the full statement in the record, if you have one.

Let me commend all of you for the quality of your budget justifications. They are to me a substantial improvement over last year. We appreciate these types of justifications. It makes our life a little easier. It probably makes yours a little harder.

We did criticize you last year for what we thought was difficult to understand. We appreciate your responding to that criticism.

[The statement follows:]

STATEMENT OF GORDON G. RIGGLE

EXECUTIVE OFFICE OF THE PRESIDENT
COMPENSATION OF THE PRESIDENT

The Fiscal Year 1989 budget request for Compensation of the President is $250,000. This includes $200,000 for the direct salary of the President as authorized by 3 U.S.C. 102. In addition, there is a $50,000 expense account for official use by the President. Any unused portion of this account reverts to the Treasury. This expense account is not considered as taxable to the President.

EXECUTIVE OFFICE OF THE PRESIDENT
WHITE HOUSE OFFICE

The mission of the White House Office is to provide staff assistance and administrative support to the President of the United States.

The FY 1989 budget request totals $27,950,000, a $1,524,000 increase over our current 1988 budget authority. These funds will provide for 323 full-time permanent positions, the same as authorized in FY 1988.

The increase of $1,524,000 for 1989 results from three factors: Projected Transition Costs, the FY 1989 effects of Unbudgeted Costs in FY 1988, and Unavoidable Cost Increases for FY 1989.

During the forthcoming transition the White House Office will experience a major turnover in personnel. This sort of change is costly. In the past, money was transferred from other areas to meet unbudgeted transition costs. The effect was to underfund areas essential to the new President at the very outset of his administration. To avoid this kind of disruption in 1989, we have requested $650,000 for transition costs. This money will cover a wide range of operational needs, including lump sum leave payments for departing employees and mandatory changes in the specialized White House Office computers. We believe that recognizing and responsibly funding transition costs now will contribute to an efficient transfer of national leadership next January.

As for the second category, the White House Office absorbed substantial unbudgeted costs in 1988. Those costs included the executive pay scale increase and the January 1988 two percent pay raise. These unanticipated costs were met by a variety of one time, cost delaying measures, such as drawing down consumable stocks and postponing routine maintenance or replacement of equipment. Therefore, in order to restore normal stock levels and resume routine maintenance and equipment replacement programs, $356,000 is requested in 1989.

I should emphasis that no programatic increases are involved here. This money will simply permit us to resume normal activities we were forced to curtail during 1988 in order to meet the unbudgeted costs I have outlined.

Finally, this request includes $176,000 for unavoidable cost increases, such as rental payments to GSA, workman's compensation, and increased utility and maintenance costs. The request also includes $342,000 for the annualized January 1988 two percent pay raise.

I appreciate the Committee's past understanding and ask your support for our future operations, especially during the upcoming transition of administrations.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION

The Office of Administration (OA) was established to provide common administrative support and services to the White House and agencies of the Executive Office of the President.

In December 1987, the Office of Administration celebrated its tenth anniversary of service to the Executive Office of the President. During our ceremony, we recognized 33 employees, representing nearly a quarter of our workforce, who have been with the Office since its creation in 1977. This kind of experience and stability in our workforce has been a major factor in past successes and will contribute to an efficient transition for the new President next year.

For FY 1989, we request an appropriation of $16,900,000, a $900,000 increase over our FY 1988 budget authority. The FY 1989 request will provide for 142 full-time permanent positions.

The Office anticipates $5,500,000 in reimbursements during FY 1989. These funds will be earned largely from specialized automated systems development work which the office will perform for various agencies of the Executive Office of the President. Additional reimbursable funds will result from services, such as graphics and printing, that will be provided in support of temporary agencies or commissions. These reimbursable funds will provide for 30 full-time permanent positions.

The increase we have requested is composed of several major elements. The $250,000 requested for transition costs is especially important. Dwight Eisenhower was the last President to complete eight years of office. Only once during the past twenty-eight years has the incumbent President not been a candidate for re-election. Consequently, transition advance planning has usually been characterized by great uncertainty. The January 1989 transition therefore presents a unique opportunity to both plan and budget for an orderly and efficient transfer of executive authority.

Based on historical experience and informed estimates, we project that a one-time increment of $250,000 will be necessary to fund office repairs and alterations, telephone leases and installations, labor services, payroll processing charges, ADP equipment conversions and the like, incidental to the transition.

A second major cost element is implementation of the President's Drug-Free Workplace Plan, which will be centrally administered by the Office of Administration. This program will require $127,000 in nonpersonnel costs during 1989. This money will fund employee counseling services and the cost of actual drug testing.

Four additional full-time permanent personnel positions are also requested. Three of these would be funded by direct funds, and one through reimbursements. The three direct positions will require $127,000. One of these direct positions, the Employee Assistance Coordinator, is required by the President's Plan for a Drug-Free Workplace. The second new position will be an Information Systems Security Officer, responsible for ADP and Telecommunications security within the Executive Office of the President. The final position is an Internal Controls Specialist who will ensure proper internal management control as required by the Federal Managers Financial Integrity Act.

Finally, to maintain current service levels to the Executive Office agencies, $376,000 is requested to meet uncontrollable cost increases. These include increases in utility costs and ADP facilities and maintenance contracts.

EXECUTIVE OFFICE OF THE PRESIDENT
SPECIAL ASSISTANCE TO THE PRESIDENT

The appropriation request for the Special Assistance to the President account will enable the Vice President to carry out his statutory and presidentially assigned duties to provide assistance to the Chief Executive.

The FY 1989 appropriation request for the Special Assistance to the President account is $2,199,000. This represents a $36,000 increase over the FY 1988 budget authority. This request will continue to provide for a staff of 24 full-time permanent staff positions, the same level as authorized for FY 1988.

Almost two-thirds, or 20,000 of the $36,000 requested increase, is necessary to cover the annualized cost of the FY 1988 two percent pay raise. Another $2,000 will fund the additional costs of the Federal Employee Retirement System (FERS). Increased rent payments to the General Services Administration for office space in the Old Executive Office Building accounts for another $6,000. The balance of the increase, or $8,000, will support the Vice President's Automated Data Processing program, and cover incidental costs associated with the new Vice President.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICIAL RESIDENCE OF THE VICE PRESIDENT

The Vice President's Residence is located on the grounds of the Naval Observatory and serves both as a facility for official functions and home for the Vice President and his family. This account funds the operation and maintenance of the Official Residence of the Vice President.

Until 1987 the Navy provided financial and procurement services for the Residence account. Last year, in order to consolidate financial operations within the Executive Office of the President, the Vice President requested the Office of Administration to administer the Vice President's Residence account. After one year, the new arrangement is working very well.

For FY 1989, we request an appropriation of $258,000. This is the same amount requested in FY 1988. Most of the money requested is for services and maintenance in support of the Residence.

Given the Residence's age, continuing rehabilitation will be required. As we gain additional experience supporting the Vice President's Residence, we are getting a much better understanding of the actual costs of operating and maintaining it. I believe this request will provide sufficient funds to properly support this facility.

EXECUTIVE OFFICE OF THE PRESIDENT
UNANTICIPATED NEEDS

The Unanticipated Needs account enables the President to meet unplanned and therefore unbudgeted contingencies in furtherance of the national interest, security, or defense. For FY 1989, the President once again requests $1,000,000 for Unanticipated Needs.

Only the President authorizes expenditures from this account. The Director of the Office of Management and Budget first reviews all requests for allocations from the account to ensure that only unforeseen needs that cannot be met from regular appropriation accounts are financed. Once the President has authorized an allocation, the Office of Administration then actually administers the account on behalf of the President.

In FY 1987, three allocations were made from the Unanticipated Needs account. Specifically, funds were transferred to: the President's Special Review Board, the White House Office, and the United States Secret Service.

In FY 1988, two allocations have been made to date; one to support the Presidential Task Force on Market Mechanisms and one to the White House Conference for a Drug-Free America.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISORS

The Council of Economic Advisers (CEA) requests an appropriation of $2,787,000 for fiscal year 1989. This request represents an increase of $287,000 over the current level of $2,500,000. The increase consists of $192,000 for personnel and benefits, $15,000 for travel, and $80,000 for other object classes.

The $192,000 increase, of which $126,000 is personnel compensation, will provide for full staff manning at the same level as past councils. Because of fiscal constraints during FY 1988, CEA could fill only 80 percent of the senior staff positions. This has hampered the council's work and next year the council hopes to get back to full strength. Neither staff nor budget levels have grown in real terms during the council's 40 year history.

The Council is also requesting an increase of $15,000 for travel. Travel has been funded at $28,000 since 1977, while costs have increased considerably. For example, almost all foreign travel is to represent the U.S. Government at Organization for Economic Cooperation and Development meetings in Paris. In the last three years, per diem there has more than doubled. In addition, the State Department has reduced its funding of CEA's OECD trips and to offset this will require an additional $10,000.

The remaining $80,000 is requested to cover the increased cost of rent, printing of the Economic Report of the President, supplies, and replacement of equipment.

The appropriation requested for FY 1989 provides what we feel is a realistic level of support for the Council.

EXECUTIVE OFFICE OF THE PRESIDENT
NATIONAL SECURITY COUNCIL

For Fiscal Year 1989, the National Security Council (NSC) requests an appropriation of $5,100,000. This represents a $100,000 increase over the current FY 1988 level of $5,000,000.

An additional $34,000 is need to cover the annualized cost of the new Federal Employee's Retirement System (FERS).

While no additional space is being requested, the NSC will experience a $10,000 increase in the cost of rental payments to the General Services Administration (GSA).

The increase of $56,000 in Other Services/Equipment will be used to complete the physical upgrade for records/security management. The NSC will be reimbursed by the White House Situation Support Staff for after-hour utility charges required by its computer center. Estimated reimbursements for FY 1989 are $38,000.

The appropriation also provides $413,000 for the President's Intelligence Oversight Board and the President's Foreign Intelligence Advisory Board.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF POLICY DEVELOPMENT

The Office of Policy Development (OPD) is responsible for advising and assisting the President on a wide range of domestic issues. OPD also supports various cabinet-level bodies which advise the President on domestic policy matters.

OPD's personnel request for FY 1989 is for 42 permanent staff positions, which is the same number as authorized for the current year. The Office of Policy Development staff formulate, evaluate and coordinate long-range economic and domestic policy and assist the two cabinet councils.

For fiscal year 1989 OPD requests $3,000,000, which is the same amount approved for the current fiscal year. Within the budget, some adjustments have been made to reflect the higher cost of the Federal Employee's Retirement System and other minor changes.

EXECUTIVE OFFICE OF THE PRESIDENT
NATIONAL CRITICAL MATERIALS COUNCIL

The National Critical Materials Council is requesting $178,000 for fiscal year 1989. The Council primarily coordinates information and therefore relies largely on existing federal personnel with expertise in materials, economic analysis, geology, mining and minerals processing.

During the past year the Council pursued a balanced approach toward examining both mineral resources and advanced materials developments. Chairman Donald Paul Hodel and the other members, Mr. William Martin and Dr. Thomas Moore, have been actively involved in managing the affairs of the council. The Council's guiding concerns are to ensure that critical materials are available in time of need and to remove barriers to industry research and development and advanced materials.

Full consideration of these issues and the completion of the two reports required by the enabling legislation will permit the phase-out of the National Critical Materials Council by September 1990, if not earlier.

SUMMARY STATEMENT

Mr. RIGGLE. Thank you, Mr. Chairman.

I am pleased to appear before this committee to present the fiscal year 1989 budget request for some 10 accounts of the Executive Office of the President.

I will testify this morning on behalf of the following accounts: Compensation of the President; White House Office; Office of Administration; Special Assistance to the President; Official Residence of the Vice President; unanticipated needs; Council of Economic Advisers; National Security Council; Office of Policy Development; and National Critical Materials Council.

The fiscal year 1989 budget request for these Executive Office accounts totals $59,622,000, an increase of $2,675,000 over the fiscal year 1988 budget. For fiscal year 1989, we are requesting a total of 627 direct, full-time permanent positions for these agencies, an increase of 3 positions above the fiscal year 1988 authorized level.

The increases for fiscal year 1989 result from four factors: Projected transition costs; unavoidable cost increases such as the January 1988 2-percent pay raise; implementaiton of the President's drug free workplace plan, and additional positions in order to enhance security within the Executive Office of the President.

TRANSITION COSTS

The money requested for transition costs, I think, is especially important. Dwight Eisenhower was, in fact, the last President to complete 8 years of office. Only once during the past 28 years has the incumbent President not been a candidate for reelection.

Consequently, transition advance planning has usually been characterized by great uncertainty. The January 1989 transition, therefore, presents us with the unique opportunity to both plan and budget for an orderly and efficient transfer of executive authority.

During past transitions, money to meet unbudgeted costs was transferred from other areas. The effect of this was to underfund some areas essential to the new President at the very outset of his administration. To avoid this kind of disruption in 1989, we have requested $900,000 for transition costs.

Based on historical experience and informed estimates, we believe that this one-time increment will be adequate to cover a wide range of operational needs. These needs will include lump sum leave payments, changes to White House computers, office repairs and alterations, telephone leases and installations, and payroll processing charges, which are incidental to the transition.

We believe that recognizing and responsibly funding transition costs now will contribute to an efficient transfer of national leadership next January.

MAINTAINING CURRENT LEVELS

This request also includes $994,000 for unavoidable cost increases such as rental payments to GSA, workmen's compensation, and increased utility and maintenance costs. An amount of $227,000 is included to reach full staffing levels and to fund required travel. The request also includes $472,000 for the annualized January 1988 2-percent pay raise. I should emphasize that no programmatic increases are involved here. This money will simply permit us to maintain normal activities.

DRUG FREE WORKPLACE PLAN

Implementation of the President's drug free workplace plan is the third major cost element. This program, which will be centrally administered by my own Office of Administration, will require $167,000 during 1989. This will fund employee counseling services and the cost of actual drug testing. This funding will also support one new position, an employee assistance coordinator, required by the President's plan.

POSITIONS

Finally, there are two other full-time permanent direct positions requested. Both are security related. One of these positions, an information system security officer, will be responsible for ADP and telecommunications security within the Executive Office of the President. The National Security Agency recommended establishing this position in the study they performed concerning EOP security last year. The second position is an internal controls specialist who will ensure proper internal management control as required by the Federal Managers Financial Integrity Act.

Mr. Chairman, that completes my budget overview. Before we turn to questions, I would like to express our appreciation for the committee's continuing interest and support for the Executive Office of the President. I especially want to thank Bobby Mills and Becky Davies who have always provided us with sound advice and timely assistance.

Now, Mr. Chairman, I would be pleased to answer questions regarding these accounts.

Senator DECONCINI. Thank you, Mr. Riggle.

Does anybody else have any statement?

Mr. RASMUSSEN. No, sir.

Senator DECONCINI. I concur with your compliments of Bobby and Becky.

I do have a few questions. I will submit some of them to you, Mr. Riggle, but just to touch on a few items.

In both your statement and your justification, you offer the so-called unbudgeted costs that you were forced to absorb in fiscal year 1988. Yet it appears that you are attempting a good portion of those cuts in fiscal year 1989. For example, you include $356,000 in building your fiscal year 1989 current service baseline for one-time fiscal year 1988 reductions unavailable. That is a quote.

In short, it seems as though a good portion of your fiscal year 1989 budget increase is to allow you to play the so-called catchup game, and restore cuts made last year.

Why are you seeking restoration of some of last year's cuts?

Why not just take last year's base appropriation and only add what you really need?

WHITE HOUSE OFFICE

Mr. RIGGLE. Senator, during fiscal year 1988, the White House was forced to absorb substantial unplanned and unbudgeted cost increases. These included the executive pay scale increase, the January 1988 2-percent pay raise, and the increased cost of detailee reimbursement.

The White House was able to accommodate those increased costs only by taking a series of one-time cost delaying or cost avoidance measures in other accounts. For example, in order to fund the pay raise, we delayed ongoing ADP replacement and maintenance programs. We simply didn't buy new computer hardware or properly maintain the equipment we had.

Another method for generating funding for unavoidable costs was the depletion of storeroom stocks. We drew down stamps. We drew down stationery supplies. We drew down a variety of consumables that are necessary to run the White House Office.

We can do that once, but if we continue to do that, over time our ADP modernization program will fall further and further behind. Also, the existing equipment that we have will be inadequately maintained, and at some point we will have to restock the storerooms that were depleted in fiscal year 1988.

Senator DECONCINI. I don't say this particularly critical of you, but what troubles me is that when we do go through this effort of across-the-board cuts as we were mandated to do, everybody takes them because the law says so, but then they come back the next year, and are built back in. Many agencies have done that, including this agency that I work for up here.

I find it awfully disturbing that we are not playing by the rules now. I don't know how you solve those problems, but it seems to me like it means a reduction. If it is a reduction, it is a reduction. If it is going to be just a temporary, 1-year reduction, the reconciliation bill would have said so, but it didn't.

Many of our agencies, particularly those of the Treasury Department, were forced to absorb at least one-half of the proposed annualization cost attributed to the 2-percent pay raise in fiscal year 1988. It appears that the White House Office is getting the full amount, without any absorption.

Why are you privileged? Why shouldn't you absorb at least one-half what some of the other agencies have to absorb?

Mr. RIGGLE. Senator, there is certainly no sense that the White House Office is privileged, but it is somewhat unique in that it is extremely labor intensive. Most of the unbudgeted costs in fiscal year 1988 were, in fact, pay related, such as raises and detailee costs which we have no alternative but to pay.

It meant that we simply had to cut in other areas. Some of those are areas I think it would be irresponsible to continue to underfund in the out-years, especially in light of the fact that the budget we are requesting here today will, for 8 months of fiscal year 1989 serve a new President.

Senator DECONCINI. Probably it is very justifiable what you are trying to do there, but it is pretty hard for us to knock Treasury that we have here and force them to take one-half of it, it is mostly personnel too, and then not to impose that on you folks.

Turning to another question, How many detailees are on board at the White House, and what is that costing you in fiscal year 1988? What will the detailees cost in fiscal year 1989?

DETAILEES

Mr. RIGGLE. As of February 27 of this year, Mr. Chairman, there were 51 reimbursable detailees and 14 nonreimbursable detailees at work in the White House Office.

In fiscal year 1988, we budgeted $957,000 for reimbursement of those detailees. In fiscal year 1989, the budget we are considering here today, we have requested $399,000 for potential detailee reimbursement.

Senator DECONCINI. This question of detailees is no stranger to us on this committee or many others, and certainly no stranger to the National Security Council. The most famous, of course, being Colonel North, which has helped to focus attention on this other layer of staffing.

Last year, we spent considerable time talking about detailees at the National Security Council. We learned from Mr. Green's testimony that the Council had 124 nonreimbursable detailees on board in fiscal year 1987, with a budget value of $4.3 million, almost the value of your entire directly appropriated budget.

You have given some details about detailees on your side. What is the status of detailees at the NSC in fiscal year 1988, and what are the plans for 1989, and how many of those are you paying for?

Mr. RIGGLE. Again, as of February 27, 1988, the National Security Council had one reimbursable detailee and a total of 84 nonreimbursable detailees on board.

Senator DECONCINI. That is down considerably, isn't it?

Mr. RIGGLE. Yes, sir.

Senator DECONCINI. That is what Mr. Carlucci said he would do, I remember.

Mr. RIGGLE. The National Security Council budget for fiscal year 1988 included $35,000 for reimbursement of the one reimbursable detailee they have on board. Again, in fiscal year 1989, they have requested the same $35,000 for reimbursement.

Senator DECONCINI. Very good.

Mr. RIGGLE. I should point out that the National Security Council has an interagency agreement in place for reimbursement on behalf of that reimbursable detailee.

[The information follows:]

NATIONAL SECURITY COUNCIL DETAILEES

The figure of 124 detailees quoted by Senator DeConcini included 65 nonreimbursable detailees to the National Security Council and 59 personnel assigned by their parent agency to the White House situation support staff. In addition, there were six reimbursable detailees to the NSC at the time of that report.

For comparative purposes, as of February 27, 1988, there were 84 nonreimbursable detailees to NSC (an increase of 19) and 47 personnel assigned to the White House situation support staff (a reduction of 12) for a total of 131. In addition, there is one reimbursable detailee to the NSC.

Increases in the number of detailees to the NSC are primarily attributable to reforms instituted after the President's Special Review Board issued its report in February 1987. The Board's recommendations emphasized the value of segregaton of duties within the NSC and the strengthening of certain operational areas. As a result, additional resources have been assigned to the function of legal advisor, security officer, and records management in order to ensure vertical lines of authority; to promote strict accountability for staff actions; and, to enhance recordkeeping procedures. Further, the recent, increased level of activity in the arms control area has generated the need for additional detailees to NSC.

OFFICE OF ADMINISTRATION

Senator DECONCINI. Going back to this question of the bipartisan budget summit last year calling for a 2-percent over fiscal year 1988 growth, even taking out so-called transition and drug testing costs, your percentage increase is 3 percent. How were you able to sell that to OMB?

Mr. RIGGLE. Senator, when you say your increase, are you speaking of the EOP overall, or the Office of Administration?

Senator DECONCINI. The Office of Administration has a 3-percent increase if we read it correctly, yet the budget summit agreement called for 2 percent. I realize that that is for the whole area, but I wonder how you convinced OMB to give 3 percent.

Mr. RIGGLE. The Office of Administration is charged by law with providing common support and administrative services to all the agencies and activities of the EOP. Therefore, the financial effect of initiatives which serve all the EOP agencies, is often concentrated in the Office of Administration.

A very good example in fiscal year 1989 is the President's drug free workplace plan. My office, the Office of Administration, is charged with administering the drug free workplace plan, including urinalysis testing on behalf of the entire EOP. Therefore, the entire cost of the EOP-wide drug free workplace plan is reflected in the Office of Administration budget.

Senator DECONCINI. That is new, then.

Mr. RIGGLE. Yes, sir; it is concentrated in the Office of Administration. You will see not $1 in any other account in the EOP on behalf of drug testing. So we absorb the costs on behalf of other agencies and activities, and that is the basis for our overall budget increase.

Senator DECONCINI. Thank you for your explanation.

According to your justification, a portion of the Special Assistance to President budget goes to support the Presidential task force on the crime problem in south Florida, including the national narcotics border interdiction system.

How much of your total special assistance budget is spent on these two activities, and how much staff is allocated to each?

Mr. RIGGLE. Mr. Chairman, I would like to provide that for the record. I don't have those figures immediately available to me.

[The information follows:]

NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM

None of the staff of the Vice President's Office are allocated to the national narcotics border interdiction system [NNBIS] on a full-time basis. However, a small contingent of personnel assigned from other agencies operates under the auspices of the Vice President's Office and his role as chairman of the Presidential task force on the crime problem in south Florida. As such, a basic level of support is provided to this working group, including the provision of office space, stationery supplies, and travel. The NNBIS working group represents their parent agencies' and departments' efforts to conduct coordinated, nationwide drug interdiction operations.

NNBIS is working to: maximize Department of Defense and intelligence community support of drug interdiction; enhance interagency cooperation and coordination in drug interdiction; and promote international cooperation in support of drug interdiction.

ADDITIONAL COMMITTEE QUESTIONS

Senator DECONCINI. Thank you, Mr. Riggle, you are doing a great job down there. It is no easy task. I appreciate your being here with us today. We will submit the balance of the questions from Senator Domenici and us. Thank you very much.

Mr. RIGGLE. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

DRUG TESTING IN EOP OFFICES

QUESTION: I notice that your White House Office is one of the few agencies we have seen that has actually budgeted for the President's new drug testing program initiative -- an initiative that I support. You are budgeting $167,000 in fiscal 1989 to carry out the drug testing program in the White House Office and the other EOP offices.

Tell us about drug testing in the Executive Office of the President; how it will work; and how you are carrying out the guidelines set out in the Supplemental Appropriation bill, 1987?

ANSWER: The Executive Office of the President is one of the agencies that was identified in Section 503 of the Supplemental Appropriations Act of 1987 to implement President Reagan's Executive Order 12564 for a drug-free workplace according to uniform standards and timeframes. In compliance with the Supplemental Appropriations Act, the Executive Office of the President has developed its plan and has submitted it to the Secretary of the Department of Health and Human Services where it is has recently been approved. The EOP will submit its annual report relating to drug-testing activities in conjunction with the 1990 budget.

A standard for selection as a "testing designated position" was developed by the Interagency Coordination Group for use by all Federal agencies. Each EOP agency head then used this standard to specifically determine which positions in his or her agency were testing designated positions. The employees in these identified positions will be subject to random testing under the EOP Plan.

Overall, of the 1,640 positions in the 13 EOP agencies, 1215, or 74 percent, have been designated for random testing. Our Plan calls for annual random testing of 12 percent of the identified pool of employees from all EOP agencies. In addition, all new hires into designated positions will be tested prior to appointment. Our FY 1989 costs reflect a higher than usual new hire rate resulting from the change in Presidential Administrations.

The total cost of the Plan in FY 1989 will be $167,000, as well as requested authority for one additional full-time permanent position, an Employee Assistance Coordinator. A private counselling firm has been contracted at a cost of $25,000, and the position will require $40,000. The remaining cost estimates are based on information provided by the OMB and HHS. We expect to pay about $25 for each specimen collection and $25 for each laboratory analysis. Additional expenses for supervisor and employee education and training programs, for the services of a Medical Review Officer, and for program administration are included, accounting for the remaining $102,000.

TRANSITION COSTS

QUESTION: You are asking for $900,000 to cover the cost of transition between the Reagan Administration and the new

President's Administration next year, as it affects the Executive Office of the President offices.

What would be the effect on EOP operations if we were to give you 75% or 50% of the transition money and force your agencies to absorb the rest out of your fiscal 1989 budgets?

ANSWER: Within the Executive Office of the President, only three agencies have requested funding to support the 1989 Presidential Transition. These agencies, and the amounts they have requested, are: (1) The White House Office---$650,000, (2) the Office of Administration---$250,000, and (3) the Executive Residence at the White House---$280,000.

The Executive Office of the President exists to support the President and a change of Administrations will affect every agency within our organization. In preparing the 1989 budget requests, however, each agency anticipates the absorption of the normal costs associated with a transition. The three agencies mentioned above were permitted to include requests for additional amounts because their operations will be most dramatically affected by the transition. The justification material submitted with the 1989 budget request provides a detailed breakdown of these extraordinary costs.

This year, more than any other, we are carefully examining the process and costs of the Presidential Transition. These studies, although not yet complete, tend to show that in the past, too little attention has been given to adequately planning and funding the transfer of executive authority. The Administration is committed to ensuring a smooth and effective transition in January, and is currently working toward that end. The goal of any transition is to ensure the new President and his key advisors are able to efficiently carry out the demands of their new responsibilities and to allocate adequate resources to complete that mission.

The additional funding requested in the 1989 budget is a first attempt to achieve that goal. In the past, no increased funding requested to cover transition costs was requested. As a result, the new Administration was forced to re-allocate existing resources to meet the demands of the transition. The net result was that the new Administration was limited in its ability to "hit the ground running."

A reduction in the amounts requested for the 1989 transition will have the effect of continuing this past practice of funding transition costs at the expense of ongoing operations. Activities such as equipment acquisition plans and automated systems development and maintenance will be delayed, risking a less than efficient first year of operational support for the new President.

OFFICE OF ADMINISTRATION: TRAVEL

QUESTION: Mr. Riggle, as you know, this committee mandated a cut of 13 percent in travel last year in almost every agency budget. The Congressional budget called for a whopping 23% cut. Looking at your budget justifications, it is clear that the Office of Administration not only did not take the required cut in travel, it increased travel by over 25% over fiscal 1987 levels. Your budget for fiscal 1989 calls for an 80% increase in travel.

Why in the world should we approve an 80% increase in travel for the Office of Administration, on top of last year's increase---especially since you were supposed to be cutting travel in fiscal 1988? Why weren't you able to comply with the Committee travel cut directives of fiscal 1988?

ANSWER: The Office of Administration did take the mandated travel reduction in FY 1988. The travel request for FY 1988 in the FY 1988 President's Budget request was $30,000. In compliance with Senate Report 100-160, the President's actual Budget was reduced to $25,000 for OA travel in FY 1988. This is a $5,000, or 16.7%, decrease from both approved FY 1987 and requested FY 1988 levels.

Of the $30,000 approved in the FY 1987 budget, only $19,000 was actually expended, due to a conscious effort to reduce the Office of Administration's travel expenditures.

The increase of $20,000 requested for FY 1989 is to allow OA personnel to provide expert ADP and communications support for the President as he travels. With OA's expanding role in maintaining White House Complex automated systems, the most efficient option is for OA to provide this support on the road as well. The $20,000 growth in travel in FY 1989 is a programmatic increase, and not something OA has performed, at these levels, in the past.

OFFICE OF ADMINISTRATION: EQUIPMENT

QUESTION: Mr. Riggle, the equipment budget of the Office of Administration has increased rather dramatically since fiscal 1987 -- 58.9% to be exact.

Can you tell us why this large increase in equipment over the past two years?

ANSWER: The majority of the increase in the equipment line item took place from FY 1987 to FY 1988. This increase of $352,000 was approved for several reasons, the foremost of which was the expansion of the data storage and user capabilities of the Office of Administration's mainframe computers. This expansion was necessary due to assumption by OA of computer support for the White House Communications Agency administrative systems, the ADP processing of the Gramm-Rudman-Hollings-mandated information, and the continuing enhancement of White House and OA office automation systems, such as the PROFS electronic mail system. The total cost of the mainframe upgrade will be spread over three years, FYs 1988-1990, after which the OA equipment line item will return to its normal operating level.

An increase of only $15,000, or 1.7%, is requested for FY 1989, to allow OA to continue its ADP replacement program for its outdated word processors.

OFFICE OF ADMINISTRATION: PERSONNEL MANAGEMENT INCREASES

QUESTION: Your justification (p.12) shows that the Personnel management program will experience more than a 33% increase over fiscal 1988 levels --- from $600,000 to $806,000 next year.

Why this large percentage increase in personnel management in fiscal 1989 and what would happen if that were cut back to half of that percentage boost?

ANSWER: The Personnel Management Division will be responsible for centrally administering the President's Drug-Free Workplace Plan for the entire Executive Office of the President in FY 1989. This will require $167,000, and the authority for one additional full-time permanent position, an Employee Assistance Coordinator. Cost estimates for the Plan were carefully developed, based upon information from both OMB and HHS. This program implements Executive Order 12564, and any cut in funding would seriously diminish the Office of Administration's ability to properly administer this program.

The remaining $39,000 increase in the Personnel Management Division's budget is to maintain current service levels by compensating for pay raises and other salary-related costs in this highly personnel intensive office.

OFFICIAL RESIDENCE OF THE VP: LONG TERM REPAIR COSTS

QUESTION: In your statement on the Official Residence of the Vice President you indicate that "given the Residence's age, continuing rehabilitation will be required."

Can you tell us what the five year projection is for any major repairs to the Vice President's Residence? Tell us how much will be required over the next five years for repairs at the Residence and when the next wave of major repairs are likely to come about.

ANSWER: Fiscal Year 1988 is only the second year the Office of Administration has handled financial matters for the Vice President's Residence. It has only been during this current fiscal year that we have been able to get a fairly clear picture of the Residence's actual annual operating cost. Previously, major repairs have usually been dealt with as they arose. We now intend to develop a long-term maintenance plan for the Residence that will allow us to anticipate, budget for, and implement the repairs necessary to keep the Residence in a properly functioning condition befitting the Vice President and his family. I will be glad to keep the Committee updated as to the progress of our assessment.

OFFICE OF POLICY DEVELOPMENT: TRAVEL

QUESTION: Again, Mr. Riggle, this Committee directed a cut of 13 percent in travel at the Office of Policy Development in fiscal 1988. Yet your fiscal 1988 travel budget is about 16% over fiscal 1987 levels and your 1989 budget calls for another increase of 15% over fiscal 1988.

Why has travel gone up by double-digits in this Office when this Committee has specifically told you to cut back Office of Policy Development travel?

ANSWER: The budget request for Fiscal Year 1988 travel was $60,000. The Office of Policy Development was directed to absorb an overall reduction of $58,000 in low-priority activities, including a 13 percent, or $8,000, cut below the budget request in travel activities. Accordingly, the $8,000 reduction in the travel request was made, reducing FY 1988 travel from $60,000 to $52,000. In the FY 1989 request, the travel request is restored to the $60,000 level, the same amount that has been requested each year since FY 1984. The requested amount is necessary to provide an adequate travel ceiling and leave some flexibility to meet high priority travel requirements. Any unused funds will revert to Treasury at the end of the fiscal year.

COUNCIL OF ECONOMIC ADVISERS: TRAVEL

QUESTION: Mr. Riggle, I do not mean to sound like a broken record, but another agency that seems to have ignored our directive to cut travel in fiscal 1988 is the Council of Economic Advisers. In fact, your fiscal 1989 budget calls for a 53.5% increase in travel over fiscal 1988.

Now, I know that the Council has been held level for many years in travel, but in these tough budget times, why in the world do you need more than a 50% increase in travel for the Council?

ANSWER: The increase in travel of $15,000 is mainly for CEA trips to meetings of the Organization for Economic Cooperation and Development in Paris. In the last three years, per diem in that city has more than doubled to $198.00. Given an average stay of three days for each trip, this is a significant increase that must be addressed. In addition, the Department of State has cut back its funding of CEA's OECD trips. This alone will require at least an additional $10,000.

COUNCIL OF ECONOMIC ADVISERS: PRINTING AND REPRODUCTION

QUESTION: The Council of Economic Advisers' printing and reproduction budget goes up nearly 27% next year. Surely inflation in the printing of the President's Economic Report can't be 27%.

Why this large percentage increase in printing and reproduction?

ANSWER: An amount of $75,000 was approved for printing and reproduction in FY 1987. The actual cost of printing the Economic Report of the President alone was $68,000 to the Government Printing Office and $7,700 to the Department of Commerce. In addition, CEA spent over $2,000 to print the monthly Economic Indicators. In total, actual printing costs for FY 1987 were approximately $88,000, or $13,000 more than was budgeted.

In FY 1988, printing costs will be higher than last year, and at least $10,000 will have to be reprogrammed into this line item in addition to the $75,000 requested. For FY 1989, CEA would expect printing to be about $10,000 higher than this year, as the costs have been rising eight to ten percent each year for the last several years.

NATIONAL CRITICAL MATERIALS COUNCIL: PROGRESS IN CARRYING OUT MANDATES

QUESTION: Last year, Mr. Riggle, this Committee expressed its concern that none of the mandates under the National Critical Materials Council's enabling statute had been carried out. We were also concerned that the Council had hired only two of the twelve full time employees authorized for the Council, as of June 27, 1987.

We directed you to make periodic, written reports on your activities; progress; and staffing situation throughout fiscal year 1988. To my knowledge, we have not received the first report to-date.

Can you tell us what specific steps have been taken to address the Committee's concerns as outlined in its Senate Report 100-160, and tell us where you are with filling those authorized slots?

ANSWER: The Council has taken the position that rather than hire permanent staff, it can more economically use the resources of existing agencies to complete the Council's work. This decision was based on two factors: (1) the Council is a temporary agency, scheduled to expire in September of 1990, and (2) the members of the Council rely on the expertise of the many specialists already available in government, because they have extensive knowledge of the organizations involved in the Council's coordination efforts.

The NCMC will advise the Committee on its current status before the end of the summer.

The Critical Materials Report is in the final draft stage. The Advanced Materials Program Plan is being coordinated with the Office of Science and Technology Policy and other government agencies. A draft is almost complete. The reports will be forwarded to the Congress by the end of this fiscal year.

NATIONAL SECURITY COUNCIL: UPGRADE OF RECORDS/ SECURITY MANAGEMENT

QUESTION: You are requesting an increase of $53,000 next year, or 76%, for other services, all of which will be used to complete the physical upgrade of records and security management.

Can you tell us about this effort in more detail and update us on the steps you are taking to tighten up records security at the Council in the wake of the revelations of shredding of documents; security leaks and the like during the Iran-Contra affair?

ANSWER: In the wake of the Iran-Contra revelations and the Report of the President's Special Review Board, the President initiated a series of reforms. These initiatives highlighted, among other things, the responsibility of the President's National Security Advisor, the NSC's Executive Secretary, and the NSC staff at large to "ensure that NSC consultations and Presidential decisions are adequately recorded," and to "ensure adequate institutional recordkeeping." In this connection, the NSC initiated a major effort early in FY 1988 to upgrade the records management procedures and capabilities of the NSC's Executive Secretariat. This upgrade includes creation of an accredited Sensitive Compartmented Information Facility (SCIF) designed for centralized retention of all Presidential and institutional records in NSC custody, including those most highly classified. Renovation of existing Secretariat space for these purposes is proceeding on schedule and is expected to be completed within the next few months. The NSC is confident that these and other measures implemented at the President's direction will safeguard official records against loss or destruction.

WHITE HOUSE OFFICE: EQUIPMENT INCREASE

QUESTION: Your biggest percentage increase over fiscal 1988 comes in your equipment object class. White House spending for equipment jumps 60% over last year, from $500,000 to $800,000. Your justifications (p.16) indicate that this large increase will essentially allow you to get back where you were before last year's tough budget year.

Why do you need to come all the way back in one year -- a year where most agencies are lucky to get an overall increase of 2%? What would be the effect on White House Office operations if we were to hold you to a 20% increase in equipment instead of 60%?

What is the relationship between the automated equipment purchases under this account and the OMB government-wide systems modernization program that is planned for fiscal 1989?

ANSWER: The White House depends primarily upon a standardized workstation for all office automation work. The decision by the current vendor to stop manufacture and support of existing workstations rendered that configuration obsolete. Consequently, replacement parts will become unavailable and maintenance by private contractor very expensive, if available at all.

Rather than replacing the equipment all at once, a three-year incremental plan was developed. The second year of the plan, FY 1988, was delayed, however, because of large unbudgeted cost increases: approximately $300,000 in increased personnel costs due to the Executive Pay raise, approximately $300,000 from the 2 percent pay raise, and approximately $600,000 from detailee charges. These factors combined with an appropriation reduction forced cutbacks in all areas of White House operations.

The original goal was to replace the final increment of equipment in FY 1989. Funding must now be sufficient to replace most of the equipment planned for the second and third years. A reduction in approved funding will only delay replacement. Maintenance costs will increase as support becomes unavailable, leaving a new Administration with obsolete and unsupportable equipment.

The OMB modernization project does not include White House Office systems, but rather deals with systems specific to OMB, such as the budget preparation system.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

OFFICE OF ADMINISTRATION

QUESTION: The Fiscal Year 1989 request for the Office of Administration includes an additional $20,000 to provide ADP and communications support for the President as he travels. You indicate that funding for this has not been budgeted for in past submissions.

Has the Office of Administration provided this support in the past? If not, who has been performing this function?

ANSWER: Beginning in August of 1985, the Office of Administration has provided steadily increasing levels of ADP and communications support for the President. As new technology and better expertise became available within the White House Complex, the demand for similar support on the road increased. Since OA developed and now maintains White House Office automated systems, it is most efficient for OA to also provide this trip support. Recently, OA conducted a pilot program to test its electronic communications support capabilities during Presidential trips. The results were highly successful and FY 1989 will be the first year a specific request of $20,000 has been assigned to this support. Previously, neither OA nor the White House Office had budgeted for this program.

QUESTION: Your budget request includes $40,000 for an additional position to provide administrative management of the Executive Office of the President's Drug-Free Workplace Plan. An additional $127,000 is requested for non-personnel costs associated with that Plan, including $25,000 for contract counseling services provided through the employee assistance program.

Would you please provide a more specific breakdown of the additional $102,000 in non-personnel costs requested to implement the President's Drug-Free Workplace Plan.

ANSWER: The total cost of the Plan in FY 1989 will be $167,000. Authority is also requested for one additional full-time permanent position, an Employee Assistance Coordinator. A private counselling firm has been contracted at a cost of $25,000, and the new position will require $40,000. The remaining cost estimates are based on information provided by the OMB and HHS. We expect to pay about $25 for each specimen collection and $25 for each laboratory analysis. Additional expenses for supervisor and employee education and training programs, for the services of a Medical Review Officer, and for program administration account for the remaining $102,000.

QUESTION: Why have you decided to have the Office of Administration fund this program directly, rather than to have the Office provide overall coordination and management, but have the other Executive Office of the President agencies reimburse you for their share of the costs of the program?

ANSWER: The Office of Administration, as the agency responsible for providing common services to all components of the EOP, decided to consider all operational aspects of the drug testing program as part of its central services mandate. For cost effectiveness and efficiency, contracts and other arrangements for urine specimen collection, specimen analysis, education and training programs, employee assistance programs, and medical review services will be centrally provided to all EOP units.

QUESTION: I understand you will fund the program on a reimbursable basis for Fiscal Year 1988. What is the estimated cost of the EOP Drug-Free Workplace Plan in Fiscal Year 1988?

ANSWER: The estimated cost of the EOP Drug-Free Workplace Program in FY 1988, the Program's start-up year, is $150,000, an unbudgeted amount which OA is unable to absorb. Therefore, the cost will be shared on a pro-rated basis by all participating agencies within the EOP.

QUESTION: When you say that the Office of Administration will directly fund the Drug-Free Workplace Plan for all EOP agencies in Fiscal Year 1989, does this include the Office of Management and Budget, Office of Federal Procurement Policy, etc. -- all the EOP agencies?

ANSWER: The Office of Administration will centrally fund and administer the Drug-Free Workplace Program for the following 13 EOP agencies: the White House Office, the Executive Residence, Special Assistance to the President, the Office of Administration, the National Security Council, the Office of Policy Development, the Council of Economic Advisers, the Office of Management and Budget (including the Office of Federal Procurement Policy), the Council on Environmental Quality, the Office of the United States Trade Representative, the Office of Science and Technology Policy, the White House Conference for a Drug-Free America, and the National Critical Materials Council.

QUESTION: What do you estimate the size of the EOP testing designated population to be compared with the total EOP workforce?

ANSWER: Overall, of the 1,640 positions in the 13 EOP agencies, 1,215, or about 74 percent, have been designated for testing. Each EOP agency head specifically determined which positions were sensitive and met the criteria for designation as a testing position. Each employee in such a designated position would then be subject to random testing under the EOP plan. The standard for selection as a testing designated position was developed by the Interagency Coordination Group for use by all Federal agencies.

QUESTION: Of the employees designated to hold sensitive, or testing designated positions, how many will actually be tested on an annual basis?

ANSWER: Our Plan calls for annual random testing of 12 percent of the identified pool of employees from all EOP agencies. In addition, all new hires into designated positions will be tested prior to appointment. Our FY 1989 costs reflect a higher than usual new hire rate resulting from the change in Presidential administrations.

QUESTION: What do you estimate the cost of each drug test to be?

ANSWER: Our costs are based on estimates provided by the OMB and HHS. We expect to pay about $25 for each specimen collection and $25 for each laboratory analysis. Additional expenses for supervisor and employee education and training programs, for the services of a Medical Review Officer, and for program administration are included in our estimates.

QUESTION: An additional $47,000 is requested to establish a position for a Security Information Officer. You indicate that surveys conducted by the National Security Agency and the

Secret Service have indicated the need for the Officer. When were those surveys made?

ANSWER: The National Security Agency INFOSEC assessment is dated May 12, 1987. The Secret Service completed its classified report on the Threat Vulnerability Analysis of the EOP Automated Information Systems in August, 1987 and OA was briefed on October 23rd, 1987.

WHITE HOUSE OFFICE

QUESTION: The Fiscal Year 1989 request for the White House Office includes $800,000 for equipment, $300,000 above the Fiscal Year 1988 funding level to continue the planned replacement and upgrade of automated office equipment. You mention that you were forced to develop an alternative plan for this effort due to IBM's discontinuance of the manufacture and maintenance early last year of equipment already installed.

You also indicate that this planned replacement and upgrade was delayed in Fiscal Year 1988 due to other mandatory funding requirements.

Did the IBM decision render all the White House automated office equipment obsolete? If the funding requested for Fiscal Year 1989 is provided, what is your planned purchase schedule? Will the equipment be installed prior to the change in Administrations?

ANSWER: The White House Office was forced to replace approximately 80 percent of its office automation equipment because the vendor discontinued manufacture and support of the computers. The absorption of $300,000 in the two percent pay raise costs, $300,000 in Executive pay raise costs, and $600,000 in detailee costs forced the second year of the purchase and installation schedule to be delayed. Purchase of these machines is now combined with that planned for the third year. It is still our intent to replace as many machines as possible before the change of Administration in FY 1989. Success of the plan will ultimately depend upon the timing and amount of funding.

COUNCIL OF ECONOMIC ADVISERS

QUESTION: The Fiscal Year 1989 request for the Council of Economic Advisers includes a $15,000 increase for travel. The budget justification indicates that this increase will enable CEA to pay for overseas trips in conjunction with meetings of the Organization for Economic Cooperation and Development, travel done at the request of the State Department and previously paid for by the State Department.

For how many years has the State Department paid for this travel?

If CEA is requesting the funds necessary for this travel in Fiscal Year 1989, is a corresponding reduction being made in the State Department's budget?

ANSWER: The State Department has been covering the cost of the CEA travel to OECD meetings in Paris since at least 1965. Recent fiscal constraints at the State Department caused them to reexamine every one of their outside commitments, and it was decided that funding for CEA travel should be discontinued. We are not aware if a corresponding reduction in State Department budget authority was proposed.

NATIONAL CRITICAL MATERIALS COUNCIL

QUESTION: The budget indicates that no full-time permanent positions have ever been assigned to the National Critical Materials Council. The Executive Director and other staff of the Council are on reimbursable detail from other government agencies.

How many staff are presently detailed to the Council? From which agencies are these persons detailed?

ANSWER: Currently there are three staff members detailed to the NCMC from the Bureau of Mines: the Executive Director, the Technical Director, and the Administrative Assistant. These detailees are provided on a fully reimbursable basis.

QUESTION: How many staff would be detailed to perform the work of the Council under your reduced Fiscal Year 1989 funding request (from $350,000 in FY 1988 to $178,000 in FY 1989)?

ANSWER: Currently, there are three (3) individuals detailed to the Council. The Council is nearing completion of the two reports that are required in the National Critical Materials Act. Consequently a reduced level of funding has been requested for FY 1989. Consistent with the President's budget request, actual employment levels in FY 1989 will correspond with available funding while satisfying the Council's mandated responsibilities.

QUESTION: Why has the Council had no full-time permanent positions assigned to it, being staffed instead with detailees from other agencies? I would think that the Executive Director and perhaps one or two clerical people would at least be permanent Council employees.

ANSWER: The members of the Council rely on the expertise of the many specialists available in existing government organizations with responsibility for minerals and materials issues. The Bureau of Mines, in meeting its own responsibilities, produces a substantial amount of analysis and data on materials issues and the Council relies heavily on these studies. In addition, the Council from time to time procures consulting services. Currently the Council is contracting for publishing services and editorial assistance to complete the Critical Materials Report.

EOP PRESIDENTIAL TRANSITION COSTS

QUESTION: The Fiscal Year 1989 budget includes $1,180,000 for costs related to the Presidential transition. This request is for three EOP agencies you expect to incur extraordinary expenses exceeding the resources available to them -- $650,000 for the White House Office, $280,000 for the Executive Residence and $250,000 for the Office of Administration.

The budget justification indicated that the change of Administrations is expected to bring a 75% changeover in personnel staff in the White House Office and $450,000 is requested primarily for lump-sum leave and overtime payments due exiting or retiring federal employees. How did you arrive at this estimate of $12,000 being requested for personnel transition costs for the Office of Administration?

ANSWER: The period beginning with the November election and extending through the following Spring will be one that will require a large amount of extra effort on the part of EOP employees. The Office of Administration, as the central provider of administrative support, will experience a significant increase in workload during this time (processing personnel actions, receiving and delivering mail, and moving equipment and furniture). The experience of past transitions, as witnessed by those who have served through them, confirms this. It will be impossible to provide the support necessary for a smooth transition without a good deal of overtime. Hopefully, the planning now underway will reduce the amount of overtime required, but this cannot be predicted with any degree of certainty. For the purposes of the 1989 budget, we assumed we would require an additional 1,250 hours of overtime at an average overtime rate of $9.71 per hour. The bulk of this overtime will be worked during the period between November 1988 and March 1989.

QUESTION: The budget justification indicated that in the past, unbudgeted transition costs had to be taken from other areas. Can you give us your findings on the costs of previous Presidential transitions; what costs, if any, were budgeted and what were the unbudgeted costs?

ANSWER: As stated in the justification material, the upcoming transition will be the first since 1961 where the outgoing President has completed an eight year term. In all transitions during that time, with only one exception, the incumbent President was a candidate for re-election. As a result, the transition planning was at best uncertain. A careful review of the available historical record does not provide us with any data that indicates there was any pre-election budget planning.

While there is no solid historical record to provide this data, it is possible to discern the types of transition activities that were funded from the available resources of the EOP agencies. In addition, the EOP is fortunate to have a number of employees who have been involved in prior transitions and are able to identify those areas that will require the greatest level of support.

As would be the case during any large scale change within an organization, we can predict there will be a number of changes affecting the office space and equipment used by the new Administration. As a result, we anticipate an increase in our expenditures for telephone and office reconfiguration. In addition, the increased use of computers and other types of office technology will affect our budget because we must purge the stored files of the outgoing Administration, set up new software files, and train the staff of the incoming Administration. Finally, we will make a large expenditure to pay for lump sum annual leave liability for employees who will depart with the outgoing Administration.

This latter point is an example of the kind of situation we are trying to avoid by requesting additional funding for these one-time transition related expenses. We estimate that the White House Office will require $450,000 in personnel compensation costs, primarily to cover its obligation to pay its departing employees for the government's annual leave liability. These payments are required by law. Without the additional amount requested in the 1989 budget, the new Administration will begin its term of office facing a major shortfall in funds to maintain adequate personnel levels.

QUESTION: The budget justification indicates that "based on historical experience, it is anticipated that a one-time increase of $250,000 will be necessary for office repairs and alterations, telephone leases and installations; labor services, payroll processing; and ADP equipment installation, training, and conversion." What historical experience have you based your estimates on?

ANSWER: This is the first time any Administration has attempted to apply the discipline of advance planning and budgeting to the transition process. Generally, the activities of prior transitions were confined to the 10 week period between the election and the inauguration. Accordingly, the information available to us is limited, or aggregated in such a way that makes it difficult to determine which costs were in support of the transition and which were ongoing in nature.

We were able, however, to look at actual outlays for the last transition and see that certain line items increased on a one-time basis. Also, we have the expert advice of several EOP employees who have experienced previous transitions.

We believe we have reasonably estimated the amount of funds that will be required to carry out a smooth transition. The funds requested for this purpose will be used only for transition purposes and will not be used to fund any other activities. We plan to keep an accurate accounting of these funds, both for the information of this committee and its counterpart in the House of Representatives, and for the use of those who will be planning future transitions.

DETAILEES

QUESTION: In a July 1987 report, GAO found that for Fiscal Year 1980 through 1985, (1) the White House under-reported the number of detailees from 12 cabinet-level departments to the White House, (2) the departments were not billing the White House for their employees detailed over 180 days in a Fiscal Year to perform White House functions; and (3) the Schedule C appointment authority was being inappropriately used to hire individuals for details to the White House. A March 1988 report released by the GAO indicates that the same circumstances existed with respect to DOD employees detailed to the White House during Fiscal Years 1980 through 1985.

What has been done since the GAO uncovered this situation to ensure proper reporting of and reimbursement for employee details?

What additional costs have been incurred in Fiscal Year 1988 as a result of these corrective actions?

ANSWER: Effective with the start of Fiscal Year 1988, all employees detailed for more than 30 days to Executive Office of the President agencies subject to Public Law 95-570, will be reported in the annual Aggregate Personnel Report. In addition, detailing agencies will be reimbursed for services performed in excess of 180 days in a fiscal year which are not in support of the detailing agency's mission. We are also working with detailing agencies so that detailees covered by the provisions of P.L. 95-570 are properly reported and reimbursement made where appropriate.

Finally, internal procedures have been strengthened. The Personnel Management Division in the Office of Administration has been charged with responsibility for monitoring the assignment of all detailees to agencies in the Executive Office of the President. To ensure proper reimbursement, the Financial Management Division has been instructed to closely enforce the existing inter-agency agreement process so that proper documentation exists for each detailee. Agencies will be advised of their eligibility for reimbursement. However, responsibility for requesting reimbursement must remain with the detailing agency.

Executive Office of the President agencies covered by P.L. 95-570 have collectively budgeted $1,062,000 in fiscal year 1988 for detailee reimbursement, recognizing that the fiscal year is not complete and that obligations do not accrue until after receipt of at least 180 days of service.

QUESTION: GAO found the use of Schedule C hiring authority by agencies for the purpose of detailing such persons to the White House to be inappropriate. I must admit that I was alarmed at GAO's finding that Schedule C appointment authority was being used to hire individuals exclusively for White House details; that, in many instances, these appointments were made on the same day or shortly before these people were detailed to the White House and, in some cases, the employees were already at the White House. (In other words, these individuals never really work at their employing agencies.)

GAO has recommended that the Director of the OPM issue regulations prohibiting the detailing of Schedule C appointees within 90 days of appointment.

Do you support this GAO recommendation? If not, why, and how would you propose this situation be corrected?

ANSWER: We do not support the GAO recommendation. The GAO has acknowledged that the Schedule C's may be detailed to the White House Office and that such details are legitimate. But GAO has also indicated that, in their opinion, the procedure for bringing some Schedule C detailees to the White House Office is inappropriate. We do not agree.

Public Law 95-570 provides an administration with needed flexibility in bringing to the White House Office detailees from other agencies. Use of Schedule C detailees is an important part of that flexibility. Indeed Schedule C's who are selected to positions of confidential or policy determining character, involving a close and confidential working relationship with the highest level official representing an Administration, are often the most appropriate individuals to serve on detail to the White House Office. Therefore, limiting an Administration's flexibility with respect to the timing of a detail of Schedule C is not recommended.

QUESTION: What assumptions are contained in your Fiscal Year 1989 request for each EOP office regarding the use of other federal agency personnel and the reimbursements required for those details?

ANSWER: The Fiscal Year 1989 request for each of the Executive Office of the President accounts presented here includes the following amounts for the purpose of funding reimbursable details:

Office of Administration	None
White House Office	$399,000
Special Assistance to the President	$24,000
Council of Economic Advisors	$62,000
National Security Council	$35,000
Office of Policy Development	$30,000
National Critical Materials Council	$111,000
	$661,000

QUESTION: Last year NSC reported that the average length of a detail was 24.8 months. Is that still the case? Why shouldn't these employees be permanently transferred to the NSC staff if they are basically working there on a yearly basis, not at their employing agency?

ANSWER: The National Security Council was established by the National Security Act of 1947 as a Cabinet council designed to assist the President in ensuring proper coordination and integration of national security policy among Executive departments and agencies. In addition to the President, its members include the Vice President, the Secretary of State, and the Secretary of Defense. The Chairman of the Joint Chiefs of Staff, the Director of Central Intelligence, the Director of the Arms Control and Disarmament Agency, and the Director of the United States Information Agency serve as statutory advisers to the NSC. The Act provides that the NSC will be served by a staff headed by an Executive Secretary. Traditionally, that staff has been largely composed of persons detailed from those Executive departments and agencies whose heads are members of, or advisers to, the NSC itself, including foreign service officers and active duty military personnel who might not be available to the NSC on any other basis. Such employees not only have provided specialized expertise on policy matters of direct interest to their departments and agencies, but have represented their home agencies on matters directly under their responsibility. In this connection, it has been recognized that the unique nature of the NSC justifies broader utilization of detailed personnel than might be true in the case of other departments and agencies. The President's Special Review Board, for example, specifically recommended in its February 1987 Report that members of the NSC Staff be drawn from personnel of "the several departments and agencies concerned with national security matters", as well as from outside the government. The length of details to the NSC continues to average approximately 24 months.

QUESTION: What would be the cost impact on the Executive Office of the President of a requirement that other Executive branch agencies be fully reimbursed for the use of their employees for periods extending beyond 60 days?

ANSWER: If all detailees to those Executive Office agencies under the Treasury, Postal, and General Government Appropriations bill, who are performing the work of EOP agencies, were to be fully reimbursable after 60 days of duty, the approximate additional cost would be nearly $4.4 million, using current salary levels. This cost would range as high as approximately $8.6 million if employees assigned to the EOP - but performing the work of their parent agencies - were also to become fully reimbursable after 60 days.

QUESTION: Would you please provide examples of the reasons why an EOP office would require the services of another agency's employee for a period of more than 60 days?

ANSWER: Special projects, reports, cyclical workload increases, or matters needing inter-agency coordination often require the services of detailees for periods beyond 60 days. Some examples of activities in which recent detailees have assisted EOP agencies are as follows: preparation of the President's Budget and Management Report for OMB; support for the Office of Policy Development's Drug Abuse Policy Office and Interagency Low Income Opportunity Advisory Board; assistance to the Vice President's Office to coordinate national drug interdiction through the National Narcotic Border Interdiction System; planning and administrative support for the White House Conference for a Drug Free America; provision of staff and other support services to the President's Special Review Board (Tower Board) through the Office of Administration; and coordination of inter-agency national security policy among Executive departments and agencies through the National Security Council.

QUESTION: I note that only the Director of the White House Military Office is considered to be a White House employee and that the rest of the personnel in the White House Military Office are considered to be Department of Defense personnel assigned (not detailed) to the White House.

What other agency personnel fall into this category; that is, they are considered to be "assigned" not "detailed" to Executive Office of the President offices?

ANSWER: Employees assigned to EOP agencies are representing, or doing the work of, their "home" or assigning agencies. These employees can serve in a liaison role, advising the agency to which they are assigned of activities in their home agency, and likewise, reporting to their assigning agency on any policy decisions or actions which may have an impact on the assigning agency; or they can perform the work of their parent agency, although physically located in EOP facilities.

Examples of such assignments are: U.S. Postal Service employees operate a regular Post Office and provide direct assistance on the heavy volume of both incoming and outgoing Presidential and White House mail; participants in such programs as White House Fellows, President's Executive Exchange Program, Presidential Management Intern Program, SES Candidate Development Programs; staff support on Federal Government

improvement initiatives such as debt collection, payroll procedures, personnel and accounting systems, productivity enhancement, regulatory reforms, etc.; staff support for the National Security Council members and advisers (Secretaries of State and Defense, Director of the CIA, Chairman of the Joint Chiefs of Staff) and to the Cabinet Councils.

QUESTION: I realize that under the provisions of P.L. 95-570 an annual report is submitted to the Congress on the number of employees detailed over 30 days to five specified offices of the White House and on the reimbursement made to agencies for employees detailed more than 180 days to these offices.

Because this report does not include all Executive Office of the President components, would you please provide us with more detailed information for the record. For each Executive Office of the President office and for each of fiscal years 1987 and 1988, would you please give us the number of other federal agency employees, by agency, detailed or assigned to that office; the average length of a detail for each office; and whether these details were provided through a fully reimbursable or non-reimbursable arrangement. Also, would you please explain the use of other agency employees by each EOP office.

ANSWER:

Council of Economic Advisers

Total number of Federal Employees that were detailed or otherwise assigned to the EOP agency:

Fiscal Year 1987: 5	Fiscal Year 1988: 4 (through April)

Number detailed or assigned on a reimbursable basis:

Fiscal Year 1987: 4	Fiscal Year 1988: 3 (through April)

Average length of detail or assignment, within each fiscal year, for the total number of Federal employees reported above:

Fiscal Year 1987: 8 months	Fiscal Year 1988: 7 3/4 mos (projected)

These employees were detailed to the Council as Senior Staff Economists because of their expertise in the fields of money, finance, taxation, and forecasting. They keep the Chairman and Members informed on current issues in their area. The Chairman in turn keeps the President informed. The major project of the staff is the Economic Report of the President together with the Annual Report of the Council of Economic Advisers. It is the Annual Report that is the principal medium through which the Council informs the public of its work and its views.

National Critical Materials Council

Total number of Federal Employees that were detailed or otherwise assigned to the EOP agency:

Fiscal Year 1987: 2	Fiscal Year 1988: 3 (through April)

Number detailed or assigned on a reimbursable basis:

Fiscal Year 1987: 2	Fiscal Year 1988: 3 (through April)

Average length of detail or assignment, within each fiscal year, for the total number of Federal employees reported above:

Fiscal Year 1987: 1 year	Fiscal Year 1988: 1 year (projected)

Executive Director - Provides overall management and policy coordination for the National Critical Materials Council.

Technical Director - Coordinates the compilation of the Advanced Materials Program Plan required by Congress and provides technical expertise to both the Executive Director and Council Members.

Administrative Assistant - Assists the Executive Director in the day-to-day operation of the Council, manages the office, and handles all related secretarial and administrative responsibilities for both the Technical Director and Executive Director.

National Security Council

Total number of Federal Employees that were detailed or otherwise assigned to the EOP agency:

Fiscal Year 1987: 71	Fiscal Year 1988: 85 (through April)

Number detailed or assigned on a reimbursable basis:

Fiscal Year 1987: 6	Fiscal Year 1988: 1 (through April)

Average length of detail or assignment, within each fiscal year, for the total number of Federal employees reported above:

Fiscal Year 1987: 1 year	Fiscal Year 1988: 1 year (projected)

The National Security Council was established by the National Security Act of 1947 as a Cabinet council designed to assist the President in ensuring proper coordination and integration of national security policy among Executive departments and agencies. In addition to the President, its members include the Vice President, the Secretary of State, and the Secretary of Defense; the Chairman of the Joint Chiefs of Staff, the Director of Central Intelligence, the Director of the Arms Control and Disarmament Agency, and the Director of the United States Information Agency serve as statutory advisers to the NSC. The Act provides that the NSC will be served by a staff headed by an Executive Secretary. Traditionally, that staff has been composed in significant part of persons assigned from those Executive departments and agencies whose heads are members of or advisers to the NSC itself, including foreign service officers and active duty military personnel who might not be available to the NSC on any other basis. Such individuals not only have provided specialized expertise on policy matters of direct interest to their detailing departments and agencies, but have represented them on matters directly under their responsibility. In this connection, it has been recognized that the unique nature of the NSC justifies broader utilization of other personnel than might be true in the case of departments and agencies. The President's Special Review Board, for example, specifically recommended in its February 1987 Report that members of the NSC staff be drawn from personnel of "the several departments and agencies concerned with national security matters" as well as from outside the government.

Office of Administration

Total number of Federal Employees that were detailed or otherwise assigned to the EOP agency:

Fiscal Year 1987: 5	Fiscal Year 1988: 0 (through April)

Number detailed or assigned on a reimbursable basis:

Fiscal Year 1987: 2	Fiscal Year 1988: 0 (through April)

Average length of detail or assignment, within each fiscal year, for the total number of Federal employees reported above:

Fiscal Year 1987: 4 1/3 mos	Fiscal Year 1988: 0 months (projected)

Detailed and assigned personnel supplemented OA's professional staff by providing legal advisory services, technical assistance on procurement of a large-scale data telecommunications system, and with activities associated with internal controls and budget development.

NOTE: An additional 26 persons were detailed to support the President's Special Review Board (Tower Board) in Fiscal Year 1987. The Board was established by Executive Order 12575, dated December 1, 1986. Section 3 of the Executive Order called upon the Office of Administration to provide staff and other support services that would be necessary for the performance of the Board's functions.

Office of Federal Procurement Policy

Total number of Federal Employees that were detailed or otherwise assigned to the EOP agency:

Fiscal Year 1987: 4 Fiscal Year 1988: 4 (through April)

Number detailed or assigned on a reimbursable basis:

Fiscal Year 1987: 0 Fiscal Year 1988: 1 (through April)

Average length of detail or assignment, within each fiscal year, for the total number of Federal employees reported above:

Fiscal Year 1987: 1 year Fiscal Year 1988: 1 year (projected)

Each employee's duties are related to their current agency responsibilities in the field of procurement and acquisition policy. They provide assistance as both technical experts and in a liaison capacity.

Office of Management and Budget

Total number of Federal Employees that were detailed or otherwise assigned to the EOP agency:

Fiscal Year 1987: 47 Fiscal Year 1988: 16* (through April)

Number detailed or assigned on a reimbursable basis:

Fiscal Year 1987: 0 Fiscal Year 1988: 2 (through April)

Average length of detail or assignment, within each fiscal year, for the total number of Federal employees reported above:

Fiscal Year 1987: 5 months Fiscal Year 1988: 5 months (projected)

NOTE: The average length of stay for each detailee is five months. However, approximately 50% of OMB's detailees stay three months or less. Longer detailees for staff associated with long term projects increase the average stay to five months.

* This number will increase toward the end of the fiscal year as more detailees arrive to assist with the preparation of the President's Budget.

The major portion of detailees are used to assist in the preparation of the President's Budget and Management Report. These detailees are usually at OMB from November through January of each year. Much of this experience provides excellent training for the detailees and assists them in carrying out their responsibilities when they return to their respective offices. In addition, other detailees are used to assist the Management side of OMB in carrying out such special projects as internal controls, cash management, debt collection, etc. These individuals are used because of their expertise. The remainder of the detailees request to spend some time at OMB to fulfill training programs.

Office of Policy Development

Total number of Federal Employees that were detailed or otherwise assigned to the EOP agency:

Fiscal Year 1987: 32	Fiscal Year 1988: 24 (through April)

Number detailed or assigned on a reimbursable basis:

Fiscal Year 1987: 1	Fiscal Year 1988: 2 (through April)

Average length of detail or assignment, within each fiscal year, for the total number of Federal employees reported above:

Fiscal Year 1987: 6 3/4 mos	Fiscal Year 1988: 8 3/4 mos (projected)

The largest number (six) of those individuals in FY 1988 are agency representatives to the Interagency Low Income Opportunity Advisory Board, established by the President on July 20, 1987. Eight of the FY 1987 detailees did work that was related to the mission of this Board.

Three of the FY 1987 and FY 1988 individuals are employees of HHS' Alcohol, Drug Abuse and Mental Health Administration; and are assigned to work for the Director of ADAMHA, Dr. Ian MacDonald. Dr. MacDonald, also an ADAMHA employee, serves as Special Assistant to the President and Director of the White House Drug Abuse Policy Office, and has offices in the Old Executive Office Building.

During FY 1988, OPD had two White House Fellows. OPD had four White House Fellows during FY 1987, including two that served only in September of 1987.

Special Assistance to the President (Office of the Vice President)

Total number of Federal Employees that were detailed or otherwise assigned to the EOP agency:

Fiscal Year 1987: 42	Fiscal Year 1988: 45 (through April)

Number detailed or assigned on a reimbursable basis:

Fiscal Year 1987: 10	Fiscal Year 1988: 11 (through April)

Average length of detail or assignment, within each fiscal year, for the total number of Federal employees reported above:

Fiscal Year 1987: 12 months	Fiscal Year 1988: 11 months (projected)

Those employees within this office primarily support the National Security Affairs office which advises the Vice President on matters of national security and assists the Vice President in his role as a member of the National Security Council, and the National Narcotic Border Interdiction System (NNBIS), which coordinates national drug interdiction on behalf of the Vice President who is Chairman of the Presidential Task Force on the Crime Problem in South Florida.

White House Conference for a Drug Free America

Total number of Federal Employees that were detailed or otherwise assigned to the EOP agency:

Fiscal Year 1987: 12	Fiscal Year 1988: 21 (through April)

Number detailed or assigned on a reimbursable basis:

Fiscal Year 1987: 1	Fiscal Year 1988: 0 (through April)

Average length of detail or assignment, within each fiscal year, for the total number of Federal employees reported above:

Fiscal Year 1987: 3 1/2 mos	Fiscal Year 1988: 5 1/2 mos (projected)

These employees have been providing support and assistance to facilitate the planning and administration of the Conference. The major projects and activities have been managing the work of the conference committees; planning, designing, and implementing portions of the six regional meetings and the national conference; and drafting relevant sections of the final report and recommendations.

White House Office

Total number of Federal Employees that were detailed or otherwise assigned to the EOP agency:

Fiscal Year 1987: 248   Fiscal Year 1988: 180 (through April)

Number detailed or assigned on a reimbursable basis:

Fiscal Year 1987: 56   Fiscal Year 1988: 51 (through April)

Average length of detail or assignment, within each fiscal year, for the total number of Federal employees reported above:

Fiscal Year 1987: 7 3/4 mos   Fiscal Year 1988: 8 months (projected)

Examples of activities in the White House Office which require the use of personnel detailed or assigned from other agencies are as follows: evaluation of candidates for Presidential appointments and for other non-career staffing throughout the Executive Branch; operation of the U.S. Postal Service facility in support of receipt and dispatch of Presidential mail; records review and analysis of documents related to Iran-Contra matters; and technical support of public liaison and private sector initiatives.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

STATEMENT OF MANUS J. FISH, REGIONAL DIRECTOR, NATIONAL PARK SERVICE, NATIONAL CAPITAL REGION

ACCOMPANIED BY:

JAMES I. McDANIEL, ASSOCIATE REGIONAL DIRECTOR, WHITE HOUSE LIAISON

DOTTIE MARSHALL, BUDGET OFFICER

BUDGET REQUEST

Senator DECONCINI. Our final witness this morning is Mr. Jack Fish, regional director of the National Park Service, National Capital region. Mr. Fish will handle the testimony for the fiscal year 1989 budget of the Executive Residence of the President.

Mr. Fish, we welcome you this morning. If you wish to bring any of your staff with you, please have them sit here. If you introduce them for us, then you may proceed to summarize your testimony.

Mr. FISH. Mr. Chairman, I appreciate the opportunity to appear before you to present, for your consideration, the fund requirements for maintenance and operation of the Executive Residence at the White House for fiscal year 1989.

EXTERIOR RESTORATION OF THE WHITE HOUSE

The appropriation for this account for fiscal year 1988 was $7,403,000, which includes $2,400,000 for the exterior restoration of the White House. As you know, this 6-year project involves removal of 30 to 50 layers of paint on the exterior walls, repair of deteriorated stone subtrates, and repainting with a modern coating system. The contract for paint removal has been awarded, and the stone restoration contract is under negotiation. Scaffolding is now visible on the north wall of the White House.

I would like to say, Mr. Chairman, that the chief usher, Gary Walters, and all of us associated with that project want to thank the committee for supporting that $2.4 million project over a 6-year period. It is unique for us to get authority for this type of project so we would have the money to build the team and carry on the work for this 6-year project. We just want to say thank you.

Senator DECONCINI. Is that on schedule?

Mr. FISH. Yes, sir; it is. As I said, the contract for paint removal is underway, the scaffolding is up, and we are negotiating with the stone restoration people.

For fiscal year 1989, the appropriation request is $5,608,000. Included in this request are funds to replace the wood floors in the State Dining Room and the first floor private dining room. Replacement of these two dining room floors will complete the restoration of flooring installed on the state level during the 1948–52 restoration.

FLOORING RESTORATION

The East Room floor was replaced in 1978, and the Red, Blue, and Green Room floors were replaced in 1987. What we are asking for, on a one-time basis, Mr. Chairman, is to replace the floor shown here in this photograph of the State Dining Room and immediately behind it the first floor private dining room.

Senator DECONCINI. How much is that?

Mr. FISH. That is $125,000.

Senator DECONCINI. How long a period of time does that take?

Mr. FISH. We will have that done this year. We did these three last year. What we did was just put up a plexiglas shield in front of the door so rather than the tour going through the East Room and coming through this door pictured here, they came down the hallway, and they were able to view the work. It is kind of interesting for the visitors to see that.

Senator DECONCINI. That is nice.

Mr. FISH. Just to show you the need, here is a piece of flooring requiring replacement.

Senator DECONCINI. Is that what the floor is now?

Mr. FISH. Yes.

Senator DECONCINI. The one on top?

Mr. FISH. The top piece is the floor that is exposed and has been sanded so many times. It should be the thickness of the bottom piece.

Senator DECONCINI. So you are going to rip that off or put another one on top?

Mr. FISH. We will take that off and put a totally new floor back in as we have done in these other rooms.

Senator DECONCINI. Do you leave these other two layers there?

Mr. FISH. No, sir.

Senator DECONCINI. They all come off.

Mr. FISH. The whole thing comes off. It has been sanded so many times, and we figure that 37 million visitors have walked on that piece of wood.

CONSERVATION NEEDS

Funds are also requested for conservation of furniture, draperies, carpet, and art works, and for official and ceremonial activities associated with the change in administration. In addition, funds are requested for refurbishment of the family quarters for the new First Family, which is customary, Mr. Chairman.

Senator DECONCINI. What does that normally cost, do you have any figures?

Mr. FISH. We have figured about $50,000.

Talking in terms of the conservation of furnishings and art work, and so forth, at the White House, these photographs show what we have at the National Park Service warehouse, where we preserve that collection.

Senator DECONCINI. Is that preserved for historical reasons or for the next First Family's choice of furniture?

Mr. FISH. Actually, it is both. We try to furnish the house to an 1800 to 1815 period. The First Family, when they come in, will go down to the warehouse and look over the collection, and bring back what they want. There are about 40,000 objects in the collection.

Senator DECONCINI. Where is that warehouse?

Mr. FISH. It is in northern Virginia, Mr. Chairman. I would be delighted to show it to you sometime.

Senator DECONCINI. Is that in Alexandria?

Mr. FISH. No, sir; it is over in Springfield.

We, in the National Park Service, not as part of this budget, have requested of Congress some additional funds to find some new space. The current space as you can see, is very crowded. It doesn't have the proper climate controls, nor the fire protection. So it is of great concern to us, and we are looking around, with GSA, as a matter of fact, to find new space.

WHITE HOUSE CURATOR

Recurring funds are being sought for the White House curator position at the Executive Residence. The position of White House curator has a history dating back to 1961 and it has been funded on a part-time basis by the Smithsonian Institution, the National Park Service, and the State Department. The previous curator served both the Executive Residence and the State Department before assuming full-time responsibilities at the State Department.

CURATORIAL WORKLOAD

Since 1961, the curatorial workload has continually increased, and a full-time position is now needed to assure proper preservation of the artifacts and objects of the White House collection. Mr. Rex Scouten, if you recall, Mr. Chairman, the former chief usher there, is currently the White House curator. The White House Historical Association has agreed to temporarily fund this position until fiscal year 1989.

This is a 1911 inventory. The curators have asked that I use white gloves, but I just couldn't bring myself to do that. That is the inventory of the objects of 1911. It is kind of interesting to thumb through.

Senator DECONCINI. You have one of these for what period of time?

Mr. FISH. That one is 1911.

Senator DECONCINI. For each year, you have an inventory?

Mr. FISH. Yes, sir.

Senator DECONCINI. It doesn't change much, I don't suppose, does it, from year to year?

Mr. FISH. There are three of these volumes for 1986, Mr. Chairman.

Senator DECONCINI. You keep adding so much furniture because of new families wanting different things?

Mr. FISH. Yes, sir.

Senator DECONCINI. In essence, if the First Family comes in and they want a new piano or a new mirror that you don't have in inventory, you go out and buy it, assuming you have the money.

Mr. FISH. Furnishings, for the historic period that I have mentioned, 1800 to 1815, we try to get a number of those.

Senator DECONCINI. What if they want something that isn't 1815 for their personal residence, do you go buy that? Does it come out of these funds?

Mr. FISH. Yes; we would do that.

Senator DECONCINI. You have a lot more detail on each item here, too, than you do in that one.

Mr. FISH. We now have the inventory on the computer, but the paper and the binding are still the same as they were in the older ones.

Senator DECONCINI. I see an item that is one line there, and you have five lines here.

Mr. FISH. Yes.

Senator DECONCINI. This may account for the additional space.

Mr. FISH. Yes; I guess we can do more with the computer.

Senator DECONCINI. Going back to the question, just out of curiosity for myself. The First Family comes in and they want a modern piece of furniture in their living quarters up there. Do you buy that?

Mr. FISH. We do, if it is necessary. They may bring their own furniture.

Senator DECONCINI. They may bring their own?

Mr. FISH. Yes, sir; that they would be comfortable with.

Senator DECONCINI. But that is one resource they have, to go to you?

Mr. FISH. We would do that, certainly.

ROLE OF THE WHITE HOUSE HISTORICAL ASSOCIATION

We do have the White House Historical Association, which was set up back in 1961, which is the nonprofit organization to assist the National Park Service. We have these types of associations in parks all over the country, cooperating associations, we call them.

The funds that are derived from the sale of books, in this particular case, or the sale of other things, appropriate interpretive material at the White House, go toward buying furnishings and things like that.

It could be that if they wanted a particular sofa, a modern one, we could use that funding also.

Senator DECONCINI. If you go and buy a piece from 1815, if you find a piece or something, or somebody donates it, what do you give them as recognition for that?

Do they get some special certificate or something that this is now being donated and it is going to be used in the White House?

Mr. Fish. Yes; they do.

Senator DeConcini. So they can have that for posterity.

Mr. Fish. The Director of the National Park Service signs that.

Senator DeConcini. Thank you.

Mr. Fish. That is why we are asking for the full-time position as against the part-time position.

Senator DeConcini. I can see the need.

ADDITIONAL OPERATING EXPENSES

Mr. Fish. We are also requesting funds for increased personnel costs, including the fiscal year 1988 pay increase in the agency, and the contributions required by FERS.

In addition, funds are needed to cover increases in utility costs and maintenance of electrical and mechanical systems. An increase is being sought for a variety of supplies and materials such as lumber, paint, plumbing supplies, air filters, motors, generators, light bulbs, and similar items that are not easy to get. In recent years, expenditures of this type, especially those associated with the mechanical repairs, have exceeded programmed amounts, requiring cuts in other areas.

PREPARED STATEMENT

This concludes my testimony, Mr. Chairman. I would be pleased to try to answer any questions that you may have.

[The statement follows:]

STATEMENT OF MANUS J. FISH, JR.

MR. CHAIRMAN, AND MEMBERS OF THE COMMITTEE, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TO PRESENT, FOR YOUR CONSIDERATION, THE FUND REQUIREMENTS FOR MAINTENANCE AND OPERATION OF THE EXECUTIVE RESIDENCE AT THE WHITE HOUSE FOR FISCAL YEAR 1989.

THE APPROPRIATION FOR THIS ACCOUNT FOR FISCAL 1988 IS $7,403,000, WHICH INCLUDES $2,400,000 FOR THE EXTERIOR RESTORATION OF THE WHITE HOUSE. AS YOU KNOW, THIS SIX-YEAR PROJECT INVOLVES REMOVAL OF 30 TO 50 LAYERS OF PAINT ON THE EXTERIOR WALLS, REPAIR OF DETERIORATED STONE SUBSTRATES, AND REPAINTING WITH A MODERN COATING SYSTEM. CONTRACTS AWARDED FOR PAINT REMOVAL AND STONE REPAIR ARE BEGINNING THIS SPRING.

FOR FISCAL YEAR 1989, THE APPROPRIATION REQUEST IS $5,698,000. INCLUDED IN THIS REQUEST ARE FUNDS TO REPLACE THE WOOD FLOORS IN THE STATE DINING ROOM AND THE FIRST FLOOR PRIVATE DINING ROOM. REPLACEMENT OF THESE TWO DINING ROOM FLOORS WILL COMPLETE THE RESTORATION OF FLOORING INSTALLED ON THE STATE LEVEL DURING THE 1948-52 RENOVATION. THE EAST ROOM FLOOR WAS REPLACED IN 1978 AND THE RED, BLUE AND GREEN ROOMS WERE COMPLETED IN 1987.

FUNDS ARE ALSO REQUESTED FOR CONSERVATION OF FURNITURE, DRAPERIES, CARPET AND ART WORKS; AND FOR OFFICIAL AND CEREMONIAL ACTIVITIES ASSOCIATED WITH THE CHANGE IN ADMINISTRATION. IN ADDITION, FUNDS ARE REQUESTED FOR REFURBISHMENT OF THE FAMILY QUARTERS FOR THE NEW FIRST FAMILY.

RECURRING FUNDS ARE BEING SOUGHT FOR THE WHITE HOUSE CURATOR POSITION, AT THE EXECUTIVE RESIDENCE. THE POSITION OF WHITE HOUSE CURATOR HAS A HISTORY DATING BACK TO 1961 AND HAS BEEN FUNDED ON A PART TIME BASIS AT VARIOUS TIMES BY THE SMITHSONIAN INSTITUTION, THE NATIONAL PARK SERVICE, AND THE STATE DEPARTMENT. THE PREVIOUS CURATOR SERVED BOTH THE EXECUTIVE RESIDENCE AND THE STATE DEPARTMENT, BEFORE ASSUMING FULL TIME RESPONSIBILITIES AT THE STATE DEPARTMENT.

SINCE 1961, THE CURATORIAL WORKLOAD HAS CONTINUALLY INCREASED, AND A FULL-TIME POSITION IS NOW NEEDED TO ASSURE PROPER PRESERVATION OF ARTIFACTS AND OBJECTS OF THE WHITE HOUSE COLLECTION. MR. REX SCOUTEN IS CURRENTLY

THE WHITE HOUSE CURATOR, AND THE WHITE HOUSE HISTORICAL ASSOCIATION AGREED TO TEMPORARILY FUND THIS POSITION UNTIL FISCAL YEAR 1989.

WE ARE ALSO REQUESTING FUNDS FOR INCREASED PERSONNEL COSTS, INCLUDING THE FY 88 PAY INCREASE AND THE INCREASED AGENCY CONTRIBUTION REQUIRED BY THE FEDERAL EMPLOYEES RETIREMENT SYSTEM (FERS).

IN ADDITION, FUNDS ARE NEEDED TO COVER INCREASES IN UTILITY COSTS AND MAINTENANCE OF ELECTRICAL AND MECHANICAL SYSTEMS. AN INCREASE IS BEING SOUGHT FOR A VARIETY OF SUPPLIES AND MATERIALS SUCH AS LUMBER, PAINT, PLUMBING SUPPLIES, AIR FILTERS, MOTORS, GENERATORS, LIGHT BULBS AND SIMILAR ITEMS. IN RECENT YEARS, EXPENDITURES OF THIS TYPE, ESPECIALLY THOSE ASSOCIATED WITH MECHANICAL REPAIRS, HAVE EXCEEDED PROGRAMMED AMOUNTS, REQUIRING CUTS IN OTHER AREAS.

THIS CONCLUDES OUR BUDGET REQUEST, MR. CHAIRMAN. I SHALL BE PLEASED TO ANSWER ANY QUESTIONS YOU AND OTHER MEMBERS OF THE COMMITTEE MAY HAVE ABOUT THE OPERATIONS OF THE EXECUTIVE RESIDENCE.

JUSTIFICATIONS

EXECUTIVE RESIDENCE AT THE WHITE HOUSE
FY 1989 Appropriation Summary Statement

This budget provides for the care, maintenance, repair, alteration, refurnishing, improvement, air conditioning, heating, and lighting (including electric power and fixtures) of the Executive Residence at the White House and official and ceremonial functions of the President to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114.

The Fiscal Year 1988 appropriation for this account is $7,403,000 as provided in Public Law 100-202, which includes $2,400,000 for exterior stone repair and replacement, remaining available until expended. The Fiscal Year 1989 budget request is for $5,698,000 to cover normal operating expenses.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES
Total Program

IDENTIFICATION CODE 11-0210-0-1-802		1987 ACTUAL	1988 ESTIMATE		1989 ESTIMATE	
Program by activities:						
	Direct Program:	4,752	5,763	1/	5,978	1/
	Reimbursable Program:	947	1,244		1,362	
10.00	Total Obligations	5,700	7,007		7,340	
Financing:						
	Offsetting collections from:					
11.00	Federal Funds	-653	-515		-575	
14.00	Non-Federal sources	-294	-729		-787	
21.00	Unobligated balance available, start of year				-1640	
24.40	Unobligated balance available, end of year		1,640	2/	1,360	2/
25.00	Unobligated Balance lapsing	1	0		0	
40.00	Budget Authority (Appropriation)	4,753	7,403	3/	5,698	
Relation of obligations to outlays:						
71.00	Obligations incurred, net	4,752	5,763		5,978	
72.40	Obligations balance, start of year	38	72		250	
74.40	Obligated balance, end of year	-72	-250		-285	
77.00	Adjustments in expired accounts	-43	0			
90.00	Total Outlays	4,674	5,585		5,943	

1/ Includes $760,000 in FY 88 and $280,000 in FY 89 for White House exterior restoration.

2/ Represents balance of appropriation made available until expended for White House exterior restoration.

3/ Includes $2,400,000 for White House exterior restoration. Funds to remain available until expended.

Note: Sums may not total due to rounding.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE
OPERATING EXPENSES
Total Program

IDENTIFICATION CODE 11-0210-0-1-802		1987 ACTUAL	1988 ESTIMATE	1989 ESTIMATE
Direct Obligations:				
	Personnel Compensation:			
11.1	Full-time permanent	2,717	3,003	3,083
11.5	Other personnel compensation	601	633	750
11.9	Total Personnel Compensation	3,318	3,637	3,833
	Other:			
12.1	Personnel benefits: civilian	379	531	540
21.0	Travel and transportation of persons	7	3	9
23.2	Communications, utilities, rent	202	239	262
25.0	Other services	322	925 1/	806 1/
26.0	Supplies and materials	490	372	473
31.0	Equipment	34	56	55
99.0	Subtotal, direct obligations	4,752	5,763	5,978
Reimbursable Obligations:				
11.5	Other personnel compensation	97	125	132
23.2	Communication, utilities, rent	328	395	415
24.0	Printing and reproduction	0	75	75
25.0	Other services	118	235	260
26.0	Supplies and materials	404	414	480
99.0	Subtotal, reimbursable obligations	947	1,244	1,362
99.9	Total Obligations	5,700	7,007	7,340

Personnel Summary

	1987	1988	1989
Total number of full-time permanent positions	93	93	94
Total compensable workyears	93	93	94
Full-time equivalent workyears			
Full-time equivalent of overtime and holiday hours	14	14	14
Reimbursable:			
Full-time equivalent employment			
Full-time equivalent of overtime	3	3	3

1/ Includes $760,000 in FY 88 and $280,000 in FY 89 in expenditures for White House exterior restoration.

Note: Sums may not total due to rounding.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

Justification for Appropriation, Fiscal 1989
(in thousands of dollars)

Activity: Operating Expenses	1987 ACTUAL	1988 ESTIMATE	1989 ESTIMATE	INCREASE DECREASE
Operating Expenses	$ 4,753	5,003	5,698	+695
White House Stone Restoration		2,400		
Full-time Permanent Positions	(93)	(93)	(94)	(+1)

Authorization: 3 U.S. Code 105, 109-110, 112-114

Objective: To provide for the care, maintenance, repair and alteration, refurnishing, improvement, air conditioning, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House, and official and ceremonial functions of the President.

Program:

The Executive Residence staff provides for the operation of the Executive Residence. A staff of 39 domestic employees accomplishes general housekeeping, prepares and serves meals, greets visitors, and provides services as required in support of official ceremonies and functions. A staff of 33 tradespersons, including plumbers, carpenters, painters, on a single shift; electricians on a double shift; and operating engineers on a 24 hour basis, maintains and makes repairs, minor modifications, and improvements to the 132 rooms and the mechanical systems, and provides support for official and ceremonial functions.

A staff of 14 specialized employees provides services necessary to the operation of the White House and official and ceremonial functions. This staff includes 4 florists, 5 curators, and 5 calligraphers.

An administrative staff consists of the Chief Usher, 3 Assistant Ushers, 1 Executive Grounds Superintendent, 2 Administrative Assistants, and 1 Accountant. The staff is charged with management and administrative functions of the Executive Residence. This requires coordination with the Executive Office of the President, the National Park Service, the Military, the United States Secret Service, the General Services Administration and other agencies.

The equivalent of 4 full-time workyears of extra staff above the ceiling for full-time permanent positions are hired under personal services contract agreements ("Services by Agreement") to provide additional help as required for official and ceremonial functions.

Current Accomplishments:

The White House is maintained as a home for the President and his family, as a public museum, and to serve as a facility for official and ceremonial functions. The wood parlor floors in the Green Room, the Blue Room, and the Red Room were replaced in Fiscal Year 1987. An estimated 37 million visitors had walked on the floors since they were installed during the 1948-1952 renovation.

The White House is open for public tours Tuesday through Saturday in addition to some national holidays, the evening Candlelight Tours at Christmas, the Easter Egg Roll, and spring and fall Garden Tours. During 1987, an average of 4,363 visitors toured the White House each day for 247 days. A total of 15,463 people viewed the White House during the 1987 Candlelight Tours, and 39,364 people participated in the 1987 Easter Egg Roll on April 20, 1987.

Budget Considerations:

1.	One additional permanent position, White House Curator, to assure proper preservation of artifacts and objects of each Presidency	+ 65,000
2.	Increased personnel costs due to unprogrammed portion of FY 88 pay raise and increased FERS costs	+ 36,000
3.	Training programs for new employees replacing retirees	+ 3,600
4.	Utility increases which cannot be absorbed	+ 23,000
5.	Maintenance of electrical/mechanical systems	+ 7,000
6.	Supplies such as lumber, paint, plumbing supplies, air, filters, motors, generators, light bulbs	+100,000
7.	FY 89 expenditures for conservation of furniture, draperies, carpet and art works	+146,400
8.	FY 89 expenditures for increased official ceremonies and functions of the President associated with the new administration	+139,000
9.	Nonrecurring FY 89 expenditure for floor replacement in the State Dining Room and the Private Family Dining Room	+125,000
10.	Traditional (nonrecurring) expenditure for refurbishing the Executive Residence family quarters for the new First Family	+ 50,000
	TOTAL	+695,000

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES
Salaries & Expenses

IDENTIFICATION CODE 11-0210-0-1-802		1987 ACTUAL	1988 ESTIMATE	1989 ESTIMATE
Program by activities:				
	Direct Program:	4,752	5,003	5,698
	Reimbursable Program:	947	1,244	1,362
10.00	Total Obligations	5,700	6,247	7,060
Financing:				
	Offsetting collections from:			
11.00	Federal Funds	-653	-515	-575
14.00	Non-Federal sources	-294	-729	-787
21.00	Unobligated balance available, start of year			0
24.40	Unobligated balance available, end of year		0	0
25.00	Unobligated Balance lapsing	1	0	0
40.00	Budget authority (Appropriation)	4,753	5,003	5,698
Relation of obligations to outlays:				
71.00	Obligations incurred, net	4,752	5,003	5,698
72.40	Obligations balance, start of year	38	72	250
74.40	Obligated balance, end of year	-72	-250	-285
77.00	Adjustments in expired accounts	-43	0	
90.00	Total Outlays	4,674	4,825	5,663

Note: Sums may not total due to rounding.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES
Salaries & Expenses

IDENTIFICATION CODE 11-0210-0-1-802		1987 ACTUAL	1988 ESTIMATE	1989 ESTIMATE
Direct Obligations:				
	Personnel Compensation:			
11.1	Full-time permanent	2,717	3,003	3,083
11.5	Other personnel compensation	601	633	750
11.9	Total Personnel Compensation	3,318	3,637	3,833
	Other:			
12.1	Personnel benefits: civilian	379	531	540
21.0	Travel and transportation of persons	7	3	9
23.2	Communications, utilities, rent	202	239	262
25.0	Other services	322	165	526
26.0	Supplies and materials	490	372	473
31.0	Equipment	34	56	55
99.0	Subtotal, direct obligations	4,752	5,003	5,698
Reimbursable Obligations:				
11.5	Other personnel compensation	97	125	132
23.2	Communication, utilities, rent	328	395	415
24.0	Printing and reproduction	0	75	75
25.0	Other services	118	235	260
26.0	Supplies and materials	404	414	480
99.0	Subtotal, reimbursable obligations	947	1,244	1,362
99.9	Total Obligations	5,700	6,247	7,060

Personnel Summary

	1987 ACTUAL	1988 ESTIMATE	1989 ESTIMATE
Total number of full-time permanent positions	93	93	94
Total compensable workyears	93	93	94
Full-time equivalent workyears			
Full-time equivalent of overtime and holiday hours	14	14	14
Reimbursable:			
Full-time equivalent employment			
Full-time equivalent of overtime	3	3	3

Note: Sums may not total due to rounding.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

Justification for Appropriation, Fiscal 1989
(in thousands of dollars)

Activity: White House Exterior Restoration Expenses	1987 ACTUAL	1988 ACTUAL	1989 ESTIMATE	INCREASE DECREASE
White House Exterior Restoration		2,400		

Authorization: 3 U.S. Code 105, 109-110, 112-114

Objective: To complete exterior restoration of the White House in time for the bicentennial of the laying of the cornerstone, October 13, 1992.

Program:

The White House has from 30 to 50 layers of paint on its exterior walls. After several years of paint failure, and increased maintenance costs, a research investigation by the National Bureau of Standards, an agency with world renowned expertise in the field of paint chemistry, was conducted in 1977. The National Bureau of Standards recommended that all paint be removed down to the bare stone; that deteriorated stone substrates be repaired; and that the exterior be repainted using a modern coating system.

The cornerstone of the White House was laid on October 13, 1792, at the direction of George Washington. The two hundredth anniversary of this historic occasion will occur in 1992; and the Congress, in Fiscal Year 1988, appropriated $2,400,000 to conclude the restoration in time for the bicentennial.

Current Accomplishments:

The exterior restoration of the east wall and the north portico areas of the White House was completed in spring of 1985. The remaining walls, subject to more pronounced deterioration from weather exposure, will require more extensive stone repair and replacement. Work is proceeding on contract agreements to begin this work.

Budget Considerations:

$2,400,000 was appropriated in FY 88 to complete the restoration of the stone facade of the Executive Residence. Funds shall remain available until expended, and completion of the project is expected prior to October, 1992, the two hundredth anniversary of the laying of the White House cornerstone.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES
White House Exterior Restoration

IDENTIFICATION CODE 11-0210-0-1-802		1987 ACTUAL	1988 ESTIMATE	1989 ESTIMATE
Direct Obligations:				
	Personnel Compensation:			
11.1	Full-time permanent	0	0	0
11.5	Other personnel compensation	0	0	0
11.9	Total Personnel Compensation	0	0	0
	Other:			
12.1	Personnel benefits: civilian	0	0	0
21.0	Travel and transportation of persons	0	0	0
23.2	Communications, utilities, rent	0	0	0
25.0	Other services	0	760	280
26.0	Supplies and materials	0	0	0
31.0	Equipment	0	0	0
99.0	Subtotal, direct obligations	0	760	280
Reimbursable Obligations:				
11.5	Other personnel compensation	0	0	0
23.2	Communication, utilities, rent	0	0	0
24.0	Printing and reproduction	0	0	0
25.0	Other services	0	0	0
26.0	Supplies and materials	0	0	0
99.0	Subtotal, reimbursable obligations	0	0	0
99.9	Total Obligations	0	760	280

Personnel Summary

Total number of full-time permanent positions	0	0	0
Total compensable workyears	0	0	0
Full-time equivalent workyears			
Full-time equivalent of overtime and holiday hours	0	0	0
Reimbursable:			
Full-time equivalent employment			
Full-time equivalent of overtime	0	0	0

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES
White House Exterior Restoration

IDENTIFICATION CODE 11-0210-0-1-802		1987 ACTUAL	1988 ESTIMATE	1989 ESTIMATE
Program by activities:				
	Direct Program:	0	760	280
	Reimbursable Program:	0	0	0
10.00	Total Obligations	0	760	280
Financing:				
	Offsetting collections from:			
11.00	Federal Funds	0	0	0
14.00	Non-Federal sources	0	0	0
21.00	Unobligated balance available, start of year			-1640
24.40	Unobligated balance available, end of year		1,640	1,360
25.00	Unobligated Balance lapsing	0	0	0
40.00	Budget authority (appropriation)	0	2,400	0
Relation of obligations to outlays:				
71.00	Obligations incurred, net	0	760	280
72.40	Obligations balance, start of year	0	0	0
74.40	Obligated balance, end of year	0	0	0
77.00	Adjustments in expired accounts	0	0	
89.00	Outlays	0	760	280
90.00	Outlays excluding pay and retirement supplementals	0	760	280
91.40	Outlays from retirement supplemental	0	0	0
	Total Outlays	0	760	280

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

Analysis of Activities
(Dollars in thousands)

	FY 1987 Amount	FY 1988 Amount	FY 1989 Amount	INCREASE (+) OR DECREASE (-) 1989 COMPARED WITH 1988
Operating Expenses	4,753	5,003	5,698	+ 695
White House Stone Restoration		2,400 [1/]		N/A

1/$2,400,000 appropriated for White House Stone Restoration to remain available until expended. These funds will be obligated and expended over a five year period, FY 88 - FY 92.

OFFICIAL CEREMONIES AND FUNCTIONS

Senator DECONCINI. Are you responsible for any of the costs of the entertainment at the White House, the ceremonial activities?

Mr. FISH. The official ceremonies and functions.

Senator DECONCINI. Does that include food and beverage and that sort of thing?

Mr. FISH. Yes, sir.

Senator DECONCINI. It does. You provide all of that?

Mr. FISH. That is right.

Senator DECONCINI. All of that is in your budget.

Mr. FISH. For the official ceremonies and functions.

Senator DECONCINI. But not for the President and his family.

Mr. FISH. That is correct.

The State Department reimburses us for any state dinners for heads of states.

Senator DECONCINI. The entire cost of those state dinners?

Mr. FISH. Yes, sir.

Senator DECONCINI. Including the food and beverages?

Mr. FISH. Yes, sir.

Senator DECONCINI. Also the personnel that serve and everything?

Mr. FISH. That is correct. We have to have people there. Basically, it is overtime, and some people who have been doing this for years come in and assist the chief usher for those functions.

Senator DECONCINI. Your obligation is to train these people and to see that they provide the service that the President wants, or that the White House wants.

Mr. FISH. Very definitely.

Senator DECONCINI. You do a good job. It has got to be a tough job.

Mr. FISH. It is a very good staff, and a staff that has been there for a very long time.

Senator DECONCINI. I have no further questions on this, and I just thank you for the very fine job that all of you do here. I realize that it is very important, and a lot of people take it for granted that go trouping through there. I am one who does not take it for granted, and I thank you for the fine quality job that the Park Service does there through the National Capital region.

I do have a question on a different subject if you will bear with me.

PLAYGROUND FOR FEDERAL OFFICES

I know that you are working with the Federal Home Loan Bank Board, a Mr. Joy Catlin, on a playground for some of the Federal offices that you heard the GSA talk about. I didn't realize that they had 34 of them, so it may need more than a quarter-acre or a half-acre. It looks like we may need the polo field, although don't tell the polo fans that I even said that.

I wonder if you can give me an update, or what your prognosis is of finding some property downtown for a small playground for these day-care centers.

Mr. FISH. As you can imagine, there are a number of agencies that are looking around right now. The only open space that we can see are some of these park areas. We have been working with them.

We have had some discussions with the National Capital Planning Commission regarding trying to get some of the playground activities, if it is possible, on the rooftops so that there is not a crossing of the streets and that type of thing.

We are also looking at whether or not we can consolidate these requests and put them in one area. But some of these park areas, particularly around the White House, are an aesthetic amenity, you might say, part of the L'Enfant plan as to the appearance of Washington. In these instances, you have a hard time turning these lands over to a playground.

Senator DECONCINI. Is that why you turned down the Elipse request?

Mr. FISH. Yes, sir; we did.

Senator DECONCINI. How about the one in front of the OPM, is that under consideration?

Mr. FISH. That probably is the one that would be the most desirable, I think, if we could get the groups to come to that particular one, which is called Walt Whitman Park.

Another thing, too, that we are taking a look at is working with the school system and if there is any way to bus the children from that building to a school playground, if there was some way of coordinating that with the D.C. School System. So we are looking at that. It is not an easy situation for us.

Senator DECONCINI. Just from this one Member here, I hope that you can find some place with all the grounds that are there. I understand the aesthetics, but I don't know of any better aesthetics than a happy child jumping up and down on a teeter-totter or something, or at least that is my judgment, wherever it is, on the Elipse or some place else. I just hope that you can find something.

I am going to send you some information that you probably already have, which has come to my attention. Thank you for your consideration. I know, from your past cooperation, Mr. Fish, that you are one of the most conscientious Federal employees that I have ever had the pleasure to work with, and I know that you will address this in that same manner. That is all I can ask.

Mr. FISH. Thank you, Mr. Chairman.

Senator DECONCINI. Thank you. We have no further questions.

WHITE HOUSE HISTORICAL ASSOCIATION

Mr. FISH. Mr. Chairman, if I may, I mentioned the White House Historical Association. They just got a new edition of the White House Historical Guide. This is one of the four that they sell, and the receipts from these books buy the furnishings, and so forth at the White House. We have those for the other members and the staff.

I would also like to present to you, this Christmas tree ornament, Mr. Chairman. These are also sold by the White House Historical Association. This is sort of appropriate, because last year, we did the paint removal and fixed up the North Portico, and you can now begin to see the architectural detail that as shown in the ornament.

Senator DECONCINI. Do they do well on these things? Do they sell a lot of them?

Mr. FISH. They do.

Senator DECONCINI. The Senate Child Care Center started this last year, and they have done very well with them. I suspect that the White House does even better.

Mr. MCDANIEL. Mr. Chairman, the White House Historical Association sold more than 80,000 of these.

Senator DECONCINI. What do they sell them for, do you know?

Mr. MCDANIEL. They sell them for $8.50.

Senator DECONCINI. That is terrific.

Mr. MCDANIEL. The people are collecting them over the years.

Senator DECONCINI. Sure. That would take care of the playground.

Mr. FISH. Dr. Melvin Payne, the chairman of the White House Historical Association wanted you to have these.

Senator DECONCINI. Thank you. Please express my thanks to him, will you.

Mr. FISH. Yes, sir.

Senator DECONCINI. Thank you very much, and have a good day.

SUBCOMMITTEE RECESS

The subcommittee will stand in recess until Monday, April 18, at 1 p.m. in this room, when we will have the Secretary of the Treasury, Jim Baker, the Postmaster General, Anthony Frank, and Robert Tobias, president of the National Treasury Employees Union.

[Whereupon, 11:50 a.m., Friday, April 15, the subcommittee was recessed, to reconvene at 1 p.m., Monday, April 18.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1989

MONDAY, APRIL 18, 1988

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 1:08 p.m., in room SD–116, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Mikulski, and Domenici.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

STATEMENT OF HON. JAMES A. BAKER III, SECRETARY

ACCOMPANIED BY JILL KENT, ACTING ASSISTANT SECRETARY, MANAGEMENT

OPENING REMARKS

Senator DECONCINI. The subcommittee will come to order.

This afternoon the Subcommittee on Treasury, Postal Service, and General Government will continue its fiscal year 1989 appropriations hearings to receive testimony from Secretary James Baker, Secretary of the Treasury; the Honorable Anthony Frank, the Postmaster General; and Mr. Robert Tobias, president of the National Treasury Employees Union.

We would like to welcome you, Mr. Secretary. It may be the last time, but maybe not. Who knows whether you will be here or where your future lies, but I want the record to show that it has been a pleasure working with you both in the minority capacity when Senator Abdnor chaired this committee, as it was this last year. We look forward to a long relationship in the future.

Mr. Secretary, you have served this country exceptionally well, I think, in very trying times, both economically and politically. You have certainly done well for the President and yourself.

Do you have any opening statement.

Senator DOMENICI. I just have some questions. You are getting a little carried away today, Mr. Chairman. I am not so sure that I want to join in those remarks until I hear him testify here. [Laughter.]

I second those remarks uniquivocally, and he knows that.

Senator DECONCINI. I know he knows that, and I know you guys are off to some mischief at 2 o'clock, so we don't want to keep him too long.

Mr. Secretary.

FISCAL YEAR 1989 TREASURY BUDGET REQUEST

Secretary BAKER. Thank you, Mr. Chairman.

Let me start by saying that it has been a pleasure to appear before this committee through the years, both during the term of your majority and during the term that you were the ranking minority member. It is a pleasure to be here today.

If it is all right, I will very briefly summarize my testimony and ask that the formal statement be submitted for the record.

The Treasury portion of the President's budget was developed, Mr. Chairman, in accordance with the bipartisan budget agreement, and I think it supports the revenue targets in that agreement. It provides for the effective and efficient conduct of necessary Federal responsibilities and does so within the parameters of the Government-wide effort to contain and to reduce deficit spending.

Let me, if I might, highlight several important objectives that are reflected in our fiscal year 1989 budget.

First, one of our main priorities, obviously, is to effectively administer the Nation's tax laws and to continue the orderly transition to tax reform that was begun last year. This budget allows for modernized tax administration and an emphasis on service to the taxpaying public while continuing to fund high yielding revenue programs.

Another major objective is to meet effectively our law enforcement and protection responsibilities, and in particular to continue strong support for the President's war on drugs. Our request builds on the base for this effort developed in earlier years.

Our third objective is to pursue our efforts to improve management of our Nation's finances and to service its debt.

Fourth, we must produce enough currency and enough coins to meet the Nation's needs.

Fifth, we must provide for policy formulation and management oversight within the Department.

PREPARED STATEMENT

Mr. Chairman, the fiscal year 1989 budget request for the Department of the Treasury preserves the integrity of tax administration, maintains high service levels, strongly supports law enforcement activities, and safeguards the essential governmental functions of the Department.

I would be happy to respond to your questions.

[The statement follows:]

STATEMENT OF JAMES A. BAKER III

It is my honor to appear before this Subcommittee today to discuss the operating budget request for the Department of the Treasury for Fiscal Year 1989.

In March, I testified before the Senate Budget and Appropriations Committees. At that time, we discussed the Federal budget for Fiscal Year 1989 and the Nation's economy. I noted that this President's Budget was developed to uphold the deficit reduction efforts that characterized last fall's historic Budget Summit. The Budget was crafted in accord with the spirit of the Bipartisan Budget Agreement that was produced and offers the prospect of substantive progress toward our ultimate goal of deficit elimination.

Today, my remarks focus upon that portion of the overall President's Budget that pertains to the operations of the Department of the Treasury. This Departmental budget was developed in accordance with the Bipartisan Budget Agreement. It supports the revenue targets in that agreement. It provides for the effective and efficient conduct of necessary Federal responsibilities and does so within the parameters of the governmentwide effort to contain and reduce deficit spending.

Essential governmental functions entrusted to the Department of the Treasury include:

- Collecting the government's revenues through an efficient administration of the Nation's tax system;

- Combating illegal drug trafficking;

- Conducting other enforcement activities, such as protecting the President and Vice President as well as candidates for these offices, enforcing trade laws, apprehending violators of federal firearms laws, and providing law enforcement training;

- Maintaining government accounts and financing the public debt;
- Producing the Nation's coin and currency; and
- Advising the President on the economy and fiscal policies.

For Fiscal Year 1989, the Department is requesting a total budget of $7.7 billion and 153,358 total staff years. This represents an increase of $283 million and 1,557 FTE over the Fiscal Year 1988 levels contained in the Continuing Resolution. There are several overall objectives in this Budget that I would like to highlight:

I. Our key objective is to maintain an effective tax administration system and to continue the orderly transition to tax reform begun in Fiscal Year 1988.

The request for the Internal Revenue Service will promote tax compliance and continue to fund high yielding revenue programs, including enhancements begun in Fiscal Year 1988. Funding for IRS direct enforcement activities is designed to support revenue targets set in the Bipartisan Budget Agreement.

This budget provides for increased emphasis on modernizing tax administration and provides for continued support begun in earlier years for the "service side" of IRS--processing of returns and service to taxpayers--especially important during the transition to tax reform.

Finally, the IRS budget permits an expansion of international operations along with enhanced activity aimed at detecting tax fraud through criminal investigations.

II. Our second objective is to meet effectively our law enforcement and protection responsibilities and in particular to continue strong support for the President's War on Drugs. The request for Customs builds on the strong base developed in Fiscal Years 1987 and 1988 by allowing for a strengthening of drug enforcement staffing and the effective operation of air interdiction assets previously acquired or modified.

In addition to its role in drug enforcement, the Customs Service budget provides for enforcement of the Nation's import and export laws along with rapid clearance of passengers and cargo. Corrective legislation will be forthcoming to make the ad valorem user fee consistent with provisions of the General Agreement on Tariffs and Trade. The level of resources contained in this budget will allow the Customs Service to collect an estimated $17.8 billion in revenue.

The Bureau of Alcohol, Tobacco and Firearms will oversee the collection of over $10 billion in excise taxes in Fiscal Year 1989. This budget supports the efficient collection of those revenues as well as funds the development of an improved law enforcement information system.

During the first half of Fiscal Year 1989, the Secret Service will conclude those additional protective responsibilities related to the 1988 Presidential campaign and election. This request for the Service addresses these responsibilities and includes support for better security, modernized information and communications systems and centralized headquarters administration.

In FY 1989, the budget of the Federal Law Enforcement Training Center will provide for the execution of its basic law enforcement training programs. This will include support of anti-terrorist training and training for Operation Alliance.

III. A third major objective for the Department is to effectively manage the Nation's finances and service the public debt.

This budget supports continued efforts to promote financial integrity governmentwide in the areas of cash management, credit administration and financial information. Systems modernization efforts proposed in the fiscal services area will provide more secure and efficient management of the government's financial resources.

IV. Fourth, the production of sufficient coinage and currency to meet the Nation's business transaction needs is the next important objective in this budget. The requested budget for the U.S. Mint supports the essential mission of the manufacture and supply of domestic coins, as well as research and development initiatives to improve production operations. The Bureau of Engraving and Printing does not require annual appropriations.

V. The funding request for Treasury's Departmental Offices will help secure the formulation of national economic, financial and tax policies and the management oversight of bureau operations.

In sum, our $7.7 billion request for the Department of the Treasury represents:

- A necessary investment in the IRS to preserve the integrity of tax administration and to maintain a high level of service to taxpayers in the post-tax reform period;

- A continuation of effective revenue yielding activities at the IRS;

- A continuation of the strong support of the President's War on Drugs through effective law enforcement activities; and
- A commitment to maintain the essential governmental functions of the Department.

Mr. Chairman, that concludes my opening remarks. I will be happy to answer any questions that you or the other Subcommittee members may have.

DEPARTMENTAL OFFICES BUDGET REQUEST

Senator DECONCINI. Thank you, Mr. Secretary.

I notice that your budget does quite well in fiscal year 1989. Despite the bipartisan budget summit, which calls for about a 2-percent growth in nondefense discretionary funding, the budget of the Office of the Secretary is over 6 percent. Among your increases is the full cost of the fiscal year 1989 pay raise. Most of your other bureaus are being forced to absorb about one-half of that pay raise.

How do you justify this special treatment for the Office of the Secretary?

Secretary BAKER. Mr. Chairman, if you look at it going back to fiscal year 1981, Departmental Offices has received only a 1.3-percent increase in real terms in the 7 years since 1981. Many, if not most, of our other offices in the Treasury have received significant increases during that period of time. I think that is the best way that I would justify it.

While Departmental Offices has been operating at a reduced level for the past few years, other bureaus have fared much better since 1981. For instance, the Customs Service has been increased in real terms 65.8 percent versus 1.3 percent in real terms for the Departmental Offices; 45.6 percent for Secret Service; Internal Revenue Service, almost a 58-percent increase in real terms. I think that it is a case of trying to catch up a little bit.

Senator DECONCINI. Is it impossible for you to absorb any of the pay raise and reduce that growth at all? Many of the bureaus have had to absorb at least one-half for the pay raise.

Secretary BAKER. I realize that, but we have been absorbing reductions in Departmental Offices I think almost each year for the past 7 years. I guess I would say, it would not be reasonable, I don't think, for those offices to absorb that pay raise this year.

FEDERAL LAW ENFORCEMENT TRAINING CENTER AND BUREAU OF ALCOHOL, TOBACCO AND FIREARMS BUDGET REQUESTS

Senator DECONCINI. There are two agencies, Mr. Secretary, that didn't do so well, the Federal Law Enforcement Training Center and the Bureau of Alcohol, Tobacco and Firearms. OMB cut the training center by $2.1 million below fiscal year 1988, and knocked out 216 average positions for ATF that were added by Congress and approved by the President in fiscal year 1988.

The cuts will not only hurt the agencies, it will damage their ability to provide training for other law enforcement agencies throughout the Government. BATF's cut will severely damage the successful Armed Career Criminal Apprehension Program.

How do you justify these, and can you tell us if there is any chance of changing, absorbing, or reprogramming any of that? I am very concerned about those agencies.

Secretary BAKER. Let me say, as your question pointed out, we did not request a reduction in either of those two. Our request to the Office of Management and Budget included the funds which were reduced.

At the same time, I think it is our view that effective programs can be maintained in spite of those reductions.

You asked me how we might be able to reprogram or make up the reductions. We would like to see if there is some way we can make up whatever shortfall exists.

As far as ATF is concerned, we think that we are going to be able to maintain a very effective program there. I don't see any readily apparent reprogramming possibilities.

JAMAICAN POSSE

Senator DECONCINI. Can you maintain the Jamaican Posse effort that you have been involved in?

Secretary BAKER. I think we can maintain what we have been involved in.

Senator DECONCINI. At the present rate?

Secretary BAKER. Yes, sir; I think so.

Senator DECONCINI. I was very impressed with that presentation. Do you remember what that is? It is the effort on the homicides based on the drug trafficking through Jamaica. The BATF has been extremely successful in tracking down the arm sales that have been involved with that, and also tracking down a big business.

ARMED CAREER CRIMINAL PROGRAM

I was very impressed when they were here, and that is what prompted me to ask you this question. I was worried about them being able to do it. Senator Specter added $25 million last week in the budget for the Armed Career Criminal Program which would go right in your area.

Secretary BAKER. I have talked to Senator Specter about this on a couple of occasions before other committees, and he is very interested in it. I really do believe that we can continue the program effectively.

DRUG BILL

Senator DECONCINI. Mr. Secretary, it is no secret in town that my good friend, the ranking member, Senator Domenici, Senator D'Amato, and 66 others of us have been pushing hard for enactment of a major antidrug initiative in fiscal year 1989. To date, our bill has 69 sponsors, including every member of the Senate Republican leadership, 40 Democrats, and 29 Republicans.

Last week, the administration finally indicated some consideration of this and additional funding for some drug initiatives. The bill includes an additional $125 million for an air and marine interdiction program, $30 million for an additional 600 Custom officers, $8 million for an additional 135 BATF armed career criminal investigators, and a series of Custom enforcement provisions that have been working their way through the Customs Service for some time.

Now that we are down this road, can you give us your views of S. 2205 and whether or not you are supporting the legislation or do you have any suggestions to make it better?

Secretary BAKER. Let me say one or two things about that, Mr. Chairman.

First of all, there is nothing more important in my view than the fight against drugs. I think we should take note of the fact that the President's fiscal 1989 budget recognizes this by increasing funding 13 percent Governmentwide for the fight against drugs.

There are things in your bill that, speaking personally for myself, I could enthusiastically support. At the same time, as you probably know, we have not, as an administration, completed our review of the bill and we have, therefore, not taken a formal administration position on it. We are in the course of reviewing it.

I think, it is my personal view again, that the administration will ultimately conclude that it is important that we commit more resources to the war on drugs, including more resources on the demand side.

BUDGET SUMMIT AGREEMENT

I think it would be preferable if this could be done within the limitations of the budget summit agreement by allocating spending from other domestic programs where the priority might not be as great. It would be my preferred way to see us move in this direction, a move that, as I said, I strongly support.

If we can't do that, it would seem to me that what we ought to do is to get the budget summit conferees together to try and reach some sort of an accord or agreement or accommodation on this issue so that we do not do something here that would put at jeopardy the entire budget summit agreement.

I think that it would be extremely unfortunate if we had suggestions from one side or the other, whether it be the legislative or the executive, or one party or the other party, to the effect that somebody was not complying with the budget summit agreement.

I think that it was a very significant achievement. I think that it is very important that we all live up to it. I think it is important for the economy that we live up to it. If we can't find a way to get that spending from other domestic programs, then I think we need to find a way to get it in the context of agreement by everybody that this issue is of sufficient importance and priority that there should be an amendment to the budget summit agreement. But we should not do it without agreement, I don't think, by everybody.

Senator DECONCINI. Would you support such a summit meeting to revisit this?

Secretary BAKER. If we can't get it another way. As I indicated, the preferable way would be to reorder the priorities in the domestic discretionary accounts.

ENFORCEMENT PROVISIONS OF DRUG BILL

Senator DECONCINI. Senator Domenici's stalwart effort on the floor couched it in those terms, as a dire emergency.

The bill that was introduced, which, of course, is not part of the budget, has a funding apparatus which really came from Commissioner Gibbs of IRS, primarily with $286 million that he could safely say that they could bring in $1.2 billion in revenue. We all know that there is some limit as to where you can go with that, but I questioned the Commissioner at some length about it. With about an $8 or $9 million increase in the BATF budget, your people indicate that they could bring in about $150 million more in certain fees that go uncollected now. In any event, a trust fund is set up for that, and it can't be spent if the money isn't raised.

Do you think that is within the budget summit or not? Is it neutral as far as revenue?

Secretary BAKER. Mr. Chairman, I don't think that the mere fact that your bill would be revenue neutral would necessarily bring it within the budget summit agreement, because the budget summit agreement provides limits both on the spending side and the revenue side.

We were very specific and very careful about what was agreed to on the revenue side as well as the spending side. We have taxes agreed to; we have user fees agreed to, a set amount; and we have IRS compliance, a set amount.

You already have legislated, as a result of the budget summit agreement, each of those categories. Simply coming up with a revenue neutral device does not bring the bill within the budget summit agreement.

Senator DECONCINI. Mr. Secretary, if you would yield for a moment, even though there is no new revenue here, it is collections primarily of enforcements and debts that are due.

Secretary BAKER. Those are revenues. I think, if I may say so, what you mean is even though there are no new taxes.

Senator DECONCINI. That is right.

Secretary BAKER. As Senator Domenici will recall, this was the subject of a fair amount of time spent, during the budget summit agreement, negotiating the specifics of revenues apart from taxes that would be included. That is why the IRS compliance and the user fee concept is embraced within the budget summit agreement.

Senator DOMENICI. Would the chairman yield?

Senator DECONCINI. Yes.

Senator DOMENICI. Mr. Secretary, I strongly recommend that you and others—I will also recommend it to others that are around the President, so I will not be putting the whole burden on you, because this is not singularly a Department of the Treasury problem. I recommend that as soon as practical, you urge the White House to become a player in this legislation, because it seems to me that if you look around there is a very broad base of support to do something more than we have been doing. I believe that the executive branch has a real role that they could play in formulating this legislation. I say that in all sincerity.

My distinguished friend from Arizona, who put the bill together, along with Senator D'Amato, clearly do not think that every potential program that is enhanced within that is exactly the right one, nor that the mix is right.

Some of us are more concerned on the demand side, and some are more concerned on the supply side. It seems to me that the President has a role. If he could, indeed, embrace the idea and become a partner, then I believe two things could happen. Some of the ideas of those who are administering these programs could get embraced by this bill; second, we don't have the bottom line on how much we can spend in the next year effectively. It is entirely possible that working together we could come up with an effective program at somewhat less of a dollar figure but substantially more than we are spending now.

It seems to me that there is another reason. We have some $600 million, you do in your budget, over last year for this kind of activity. I have talked to sponsors of this legislation and they agree with me that it is very, very important that we not let Congress use new enhanced revenues to pay for any part of that. It was within the summit agreement. You funded it, and we ought to be able to fund it. It ought not to require enhanced revenues of any type. It ought to be paid for within the revenues we agreed upon.

I think, to the extent that you get involved in it, you could urge that the President get involved in it. I will do it myself, I will ask that he get involved. I think we could agree that it is separate and distinct, almost a supplemental approach that could be taken as part of the ordinary process, but we ought to be working at it so we know where we are going.

Frankly, I don't think there is anything that the American people would support us more broadly on than this issue of doing better than we are doing in the war on drugs with more resources, and yet keeping it deficit-neutral by way of raising some revenues through enforcement to pay for the programs that we would envision in some new legislation.

I agree with our chairman.

Secretary **Baker**. You heard, I think, Senator Domenici, my preliminary comments and remarks, and you know that my own personal view is closely akin to yours.

I do think that it is important that it be worked out in a manner that is totally, fully, and completely consistent with the budget summit agreement because, regardless of how important the priority is, we simply must hold that agreement in the national interest, in my view.

COAST GUARD TRANSFER

Senator **DeConcini**. Thank you.

Senator Domenici put it better than I could, Mr. Secretary. Let me ask you one other question on this legislation.

We have an interesting provision in the drug bill that is title V, subtitle (A), part B, which transfers the Coast Guard to Treasury, puts them under a new Under Secretary of the Treasury for Enforcement and Border Affairs. Many of us believe this move of reorganization would be not only fiscally sound but would be advantageous.

What are your views on putting the Coast Guard back under Treasury, and the idea of consolidating interdiction agencies under one Under Secretary?

Secretary **Baker**. I think that it would be useful if the interdiction agencies were consolidated within one Department, Mr. Chairman. I am quick to add that the administration has not taken a position on this. This is a position that I am expressing.

Senator **DeConcini**. I understand.

Secretary **Baker**. The Coast Guard, for many, many years, was a part of the Treasury. If it were back in the Treasury, it occurs to me that you would not have quite as many turf battles as you have when it is in a different department.

I think the question of the Under Secretaryship is one that needs to be sorted out, if this is a road that we end up going down, and how that relates to supervision of the other law enforcement agencies in the Treasury Department.

I think I testified before you a couple of years ago about an approach that was made to us by some former members of the Coast Guard shortly after I moved over to Treasury from the White House, seeking at the time to build support for a retransfer back into the Treasury Department.

BORDER PATROL TRANSFER

Senator **DeConcini**. The House companion bill, H.R. 4233, also puts the border patrol into the Treasury under an Under Secretary.

What do you think of that proposal?

Secretary **Baker**. I really haven't given any thought to that. Of course, the border patrol was never a part of the Treasury Department. I don't really have an opinion off the top of my head, but I think that they would have to work, if I may say so, rather closely with Immigration and Naturalization.

Senator DeConcini. Yes; they do.

DRUG BILL ANALYSIS

I wonder, Mr. Secretary, is it within your organization? Are you doing an analysis on this drug bill for internal use or for the Drug Policy Board?

Secretary Baker. Mr. Chairman, OMB is directing the administrationwide review of the bill. We will be providing our views to OMB. It is our Office of General Counsel that is coordinating this analysis in Treasury.

Senator DeConcini. What is not confidential in the administration sources, we would appreciate the scrutiny and constructive suggestions that you feel are proper to disclose to us as soon as you can. It would be helpful. The State Department has been up here on the crop substitution portion of the bill, and a few other areas.

CUSTOMS BUDGET

Another concern of mine on the bill is the continued funding of Customs. As you indicated, Customs has grown substantially. Even this year, 1989, the President's budget has fully funded it at last year's level plus a little bit. This is the first time, I might add, that this has happened.

What do you see as Customs long-term growth, Mr. Secretary, in this interdiction program? Do you see it continuing if we want to keep abreast of this, do you believe that we are at a point of leveling off, or do you have any opinion on this matter?

Secretary Baker. To express a personal view for you, Mr. Chairman, my view is that it will continue to grow as long as the problem persists and continues to grow, which I think we should realistically expect to be the case for a while.

On the other hand, my own view happens to also be that we need to look very carefully at the demand side of this problem and look at it to a greater extent perhaps than we have over the past few years.

Senator DeConcini. I agree.

Secretary Baker. We have been pumping a lot of money into the enforcement side and the supply side. I think we need to continue to direct resources to that, but I think we ought to also take a look at the demand side.

Senator DeConcini. This bill addresses that, if you get a chance to take a look at it.

Secretary Baker. I have seen that.

Senator DeConcini. I yield to the Senator from New Mexico.

Senator Domenici. Mr. Chairman, Senator D'Amato wanted to ask the same question that you have asked with reference to the Coast Guard.

ATTITUDES TOWARD DRUGS

With reference to drugs, I have said about all I planned to say, but, Mr. Secretary, I would add my compliments to you if your thinking is that we have to find some way to dramatically restrain the current demand, especially among our young people.

I don't think that we can in any way belittle the effectiveness of the President's wife, our First Lady's efforts at saying "No to drugs," but frankly, I believe that it is such an enormous problem of peer pressure and hopelessness among some, that we have to put into play the absolute best we can by way of communicating skills and educating skills so that our young people become aware of the fact that there is no quick fix and that, quite to the contrary, it is ruinous.

I think that we can do that. I think that between our advertising experts, our media experts, our educational experts, we can put on an American effort of 4 or 5 years of duration that will dramatically change the attitude of young people with reference to drugs.

I happened to be at church Sunday, and I was absolutely amazed, Mr. Secretary. A young, beautiful black girl, who was elected Miss Teen for the region, was called up in front of the entire congregation at a Catholic mass, and she spoke to the audience about what her views were. She instantly talked about peer pressure and how she had made a commitment that there would be no pressure put on her for things such as drugs and alcohol, because she had a great future and with them she would be ruined.

It seems to me that if we can get that pervading the sensitivity of our young people, we will make great strides against the crooks, because we pick up 1 of them and 10 more are born.

GLYNCO SATELLITE FACILITIES

Having said that, could I move just a moment, with the chairman's permission, to two issues, and I will try to do them rather quickly, and then I will submit some questions for you.

I think you are aware of the fact that I have a genuine interest in the Federal Law Enforcement Training Center in Georgia. I believe I suggested to you once before that as a very young Senator, I had more to do than I deserved at that point in time with it being there.

Quite by accident, before we paid for a new one, the committee on which I was the junior member adopted a resolution to search the inventory of American assets by way of military bases and the like for 120 days to see if we had a facility, so we didn't build a new one.

It is with great pride that I can look back on that and say we have a great facility and then and there saved $50 million right off the bat, because we took that facility, which was going to be mothballed, and it is now this great facility for training.

If I look at the budget submittals that have been sent to us, and the estimates from the agencies of this Nation that need to use FLETC, it is my understanding that it will be very difficult to even meet at that facility the basic training needs of the various Federal agencies.

I note that in response to a request made of you by the Attorney General that you and he are meeting on this issue, in particular as to whether other satellite type facilities might be needed for advanced or specialty training. You are aware that one of those indeed is being considered by Justice for my State because of the availability of a university campus which is no longer in use.

I merely wanted to say to you that I do not propose this with any idea of decentralizing the major civilian law enforcement training center and its activities in Georgia, but rather if there is room for specialized training closer to the point of need that might be available, reasonably priced, and in some consistent pattern where everybody doesn't want one, something that is logical, I would very much like to see that evolve.

I appreciate your response to the Attorney General, which I would like to make a part of the record, dated March 28, where you suggest that you meet with him on this subject to see what could be worked out that is reasonably consistent with your general view that we ought to keep training centralized and use the FLETC facility, and see if there is something that could be worked out on satellite facilities that doesn't breed one for every State.

I thank you for that, and have I appropriately stated your views on this in summary?

Secretary BAKER. I think you have Senator. My views are that there are substantial benefits to consolidated training and I think those are your views, if I understand the way you have stated the problem.

Senator DOMENICI. That is correct.

Secretary BAKER. You had a little caveat in there. You said that we might want to look at areas for specialized training, provided that in so doing we don't create demand for separate training facilities for every law enforcement function, and that is a very difficult line to walk, in my opinion. I know you and I have talked about this. I do need to say that.

Senator DOMENICI. I understand.

Secretary BAKER. I think that it is important we continue to strongly support the concept of training for all Federal law enforcement functions at Glynco to the extent that we can. The minute you give one law enforcement agency its own training facility, you are going to see the discipline for maintaining the Federal law enforcement training at Glynco disappear.

I should say, I am hopeful that when I sit down with the Attorney General that I will be able to convince him that we have the facilities and the wherewithal and the ability to do what needs to be done down there. But we need to know a little bit more from INS specifically what it is they want us to do.

Senator DOMENICI. I would think that we might find a way, just being somewhat imaginative and yet consistent, even if it means that no one other than those who run the facilities in Georgia run any other facilities. It may be a way to do it, and we might find some way that it is all under them, rather than each one doing their own, yet find something feasible in terms of proximity to the user so that we end up saving a bit of money. If it happens to be on the border, it might be that they run it, but it is closer to the border than in Georgia.

Secretary BAKER. That is something that could possibly be explored, it seems to me. I don't know how you come out dollarwise on that. We believe we have the facilities down there that could be devoted to this use, but it is entirely possible that you could devote similar facilities in New Mexico for their use at a lower cost. But we think that it is important that the management be centralized, Senator.

EXEMPTIONS TO TAX REFORM PROVISIONS

Senator DOMENICI. I think we may be talking turkey there, because I hope we can prove that it will be cheaper.

Let me say, Mr. Chairman, I have two issues that have to do with tax, I can't miss the opportunity, since I am not on the Committee on Finance, that I want to submit for his perusal.

I know that he is familiar with the growing economic value of art, art work, and sculpture in the United States, so much so that it is becoming an item of serious export capability. I want to submit to him today a summary of that we have just done to the artists, sculptors, and book writers in this country with the last tax bill because they can't expense anything until their products start producing revenue.

We have a couple of very interesting examples that I would like to hand him and let him take with him of what a typical artist, sculptor, or the like, has to do now under this new bill.

Then, since he is very much for competition, I want to submit to him what our reconciliation bill did to the small wineries in this country. We have some very small ones where they have submitted to us that our $500,000 gross receipts threshold for the tax imposed on a winery is grossly unfair, and that some of the very small ones will close down.

I am thinking that maybe we ought to put a little higher fee on Gallo and a little less on those that have a little tiny bit of resource generated. I will show him how that makes sense. The Gallos are great friends of yours and mine, and they would be receptive if only he would.

Senator DECONCINI. I am sure they would.

Secretary BAKER. Can we talk a minute about exempting authors from the uniform capitalization rules?

Senator DOMENICI. We can.

Secretary BAKER. One of the quid pro quos for that was a top rate of 28 percent instead of 50. We might be able to cut a deal whereby we could go back to the 50 percent.

That is a facetious statement, Mr. Chairman.

Senator DOMENICI. I am not sure what some of these would say about it. Some of the smaller ones might say that it is welcomed and under this they really can't continue their work. They can't finance 5 years or 4 years of effort without any tax relief.

Senator DeConcini. Do you remember why that was done? Was that revenue primarily?

Senator Domenici. Revenue flow and reduction in the top bracket.

Secretary Baker. He is talking about the very small ones, and there are some that are not that small. It was a part of their contribution. Everybody contributed to tax reform or we would not have been able to get the rate down from 50 to 28 percent. This was a provision that in some cases was taken advantage of.

Once you start exempting one group from the uniform capitalization rules, then the next group comes, and how are you going to resist the pressure to exempt them, and so forth. Pretty soon you have lost your tax reform, and you are talking about how far up you are going to crank your rates.

Senator DeConcini. The reason I asked is that I am going to have a meeting with some cattle growers this afternoon on the heifer provision, and I presume that is the same answer. You are giving me the answer that I would have to call and ask you. It is the same thing, isn't it?

Secretary Baker. Ask them if they like the 28 percent rate.

Senator DeConcini. That is where the trade off came from?

Secretary Baker. Yes, sir.

Senator Domenici. I have no more questions.

Senator DeConcini. The Senator from Maryland.

COAST GUARD TRANSFER

Senator Mikulski. Thank you, Mr. Chairman.

Mr. Secretary, my initial set of questions was going to be about the omnibus drug bill, but I know my two other colleagues have covered this in detail.

I want to make a special plug for the transfer of the Coast Guard from Transportation to Treasury so that they can be with their brothers and sisters in law enforcement. Right now, as you know, with them in function 400, they are competing with subway money, and Amtrak money. So I wanted to be on the record about that.

I have a few questions about some bureaus within Treasury and then others about work force readiness within the Department of Treasury.

FINANCIAL MANAGEMENT SERVICE BUDGET REQUEST

Your very fine people at the Financial Management Service testified before us in terms of both their mission and then also their difficulty with recruitment and retention of personnel—in every hearing, you should know, I am asking questions related to work force readiness for the year 2000, will we have a trained, adequate civil service to do business.

One of the questions that I asked your people over at FMS was where were they, since they really distribute just about every check the Federal Government issues, having difficulty with personnel retention because of antiquated equipment. Although you had some enhancements in their budget, there seemed to be a shortfall.

I wonder where you see your budget there, and whether you think that there is the adequacy for equipment, and what we need to do because that is quite the silent service.

Secretary **Baker**. It is, and it is the one that always gets hit when we are looking for money to put into other Treasury Department functions. It has been treated to some extent the same way Departmental Offices has been treated, as I indicated in my initial response to the chairman. This is because there is no romance to its work; it is just the plain, ordinary, day-to-day work of making sure that we pay and receive effectively, which is a tremendous undertaking as a Government.

I am not in a position to speak to your question on the equipment, Senator, but perhaps our Assistant Secretary for Management, Jill Kent, can answer that.

RECRUITMENT

I would like to say, before she does, I think the Treasury Department has traditionally been successful in recruiting a high quality-type person because the Department has always enjoyed an outstanding reputation. The mission of the Department is diverse, and the jobs are challenging. I really do believe that we are not having, as a Department, a lot of problems in attracting top talent.

I recall discussing this frankly with Paul Volcker a week or so before he left, when he told me that he was going to be taking the chairmanship of this commission. He, as a former member of the Department, and I, as a current member, were musing on that problem. He said that while it may be true with respect to a Department like the Treasury Department, it is not true Government-wide.

FINANCIAL MANAGEMENT SERVICE EQUIPMENT

Let me see if Ms. Kent can answer your question on equipment.

Ms. **Kent**. Senator, the Financial Management Service has been very innovative and forward-thinking in trying to address the effectiveness of workers through training initiatives and automation initiatives for their own in-house staff. The problem that has happened is because of budget shortfalls, I would say not just when the requests get to Congress, but within the administration, when tradeoffs have to be made, the decisions have been made to fund enhancement to the payment and collection system as higher priority.

I am glad to hear of your support for the automation and things that would help workers, and we will certainly take that into consideration as we go forward formulating the next budget request.

Senator **Mikulski**. I was impressed by the very high caliber of people that are there, their dedication, and their meticulous attention to doing the ordinary. You know, if those Social Security checks don't go out, and all the kinds of things that they do, there would be hell to pay.

Secretary **Baker**. That is right.

FINANCIAL MANAGEMENT SERVICE FISCAL YEAR 1989 EQUIPMENT REQUEST

Senator MIKULSKI. Some of the equipment dates back to the sixties. They seem very much committed to cash management, good management, good business management practices. I just want to make sure that they have the resources to do the mission which we have assigned them.

Ms. KENT. If your question relates to mission-related automation, I would like you to note that a significant part of their request this year, and they do have a request that exceeds the overall domestic spending increase of 2 percent, the increase for FMS this year is 5.6 percent, and it is precisely for those automation initiatives. The one that would address your concern, Senator, would be an update of the payment and collection system that would ensure that FMS could conduct its mission as effectively as possible. If this request is enacted, we should have no worries on that score.

Senator MIKULSKI. They indicated to me, after pressing them on this, that they felt that they might need about $5 million more above their request. Maybe you can look at it and give us your advice on that. We really want them to have the best technology available to them because we place an enormous amount of responsibility on them.

SUSAN B. ANTHONY DOLLAR

The second question, and I will come back to some work force readiness questions, deals with the Bureau of the Mint. Again they presented very fine testimony before the subcommittee.

I have been watching Susan B. Anthony sit in the Bureau of the Mint with very little to do. One of the reasons that Susan B. Anthony was a disaster was her size. She looked like a quarter.

One of the questions I posed to the Bureau of the Mint is whether we could give Susan B. a facelift and get her back out in the community where she would like to be. This was perhaps the idea of tinting, something that when you looked in your wallet, your pocketbook, or pulled out your coins, certainly it could be a different color. Certainly, we wouldn't want her to be red. [Laughter.]

We don't want her to be yellow and we don't like her to be blue, but other than that, I don't care what you do.

Secretary BAKER. I thought Senator Proxmire's committee was considering some legislation for her to be gold.

Senator MIKULSKI. Brassy would be OK. [Laughter.]

I read her speeches.

Do you think that that is feasible, because right now I know that you have been thinking about melting down the Susan B. coins after considerable expense and congressional activity.

Ms. KENT. Senator, your request is very topical. As the Secretary just mentioned, Senator Proxmire has a request into the Department to review—legislation that would authorize the Treasury to mint gold color dollar coins, whether or not they be the Suzie certainly we could look at that.

Senator MIKULSKI. You could call Susan B. Anthony, Susan B. DeConcini. [Laughter.]

Ms. KENT. In conjunction with that legislation, the Senator has asked us to look at the financial impact with respect to production, public willingness to accept, the impact on the mint as well as the engraving and printing, compatibility with vending and change machines, and so on. We are due to give Senator Proxmire a response by the end of June, and we would be glad to send that to you as well.

Senator MIKULSKI. Thank you.

There we have these dollars sitting there. If there is reason to get them back into circulation, if not let's get done with it.

RECRUITMENT AND RETENTION

This then goes to my last question which goes not only to the recruitment but the retention of law enforcement personnel as well as IRS people within the Department of Treasury.

In my first term here I have been very impressed with the quality and dedication of your personnel. Our new economy now is threatened by computer theft, computer fraud, computer raiding, the whole thing about money laundering, all those things that various agencies in the Department of Treasury do. Therefore, how do we recruit, train and hold on to these folks?

Just looking at IRS, I think there was an American Enterprise Institute study that showed, for example, computer personnel over at IRS start in the private sector at $23,000, and at your shop they might be starting at $15,000. The ability of counsel to train adequate attorneys, again within your shop, and then there is the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, those guys are out there dealing with the Jamaican Posses and the level of violence we have.

How can we take a look at pay scale and other kinds of things to say that we appreciate them, and also to retain them. Because anybody who could go after these kinds of economic crooks would be highly desirable in the private sector. This is a great interest of mine, and it is not only the retention, but they have the experience, that savvy, and all the technical skills, as well as the street smarts.

Secretary BAKER. It is a major problem, Senator, and we are beginning to address it. We just recently obtained approval for special salary rates for IRS agents working in New York because of the cost of competitive positions.

There are other things that we can do or that we should look at that could affect recruitment and retention, for example, reduced hiring delays by perhaps securing direct appointment authority from OPM; paying relocation expenses, maybe, for new recruits; establishing full-time recruitment coordinators; collecting profiles of successful recruits; maybe establishing fitness centers and child care facilities; things like that can make the positions more competitive with what we are seeing in the private sector and with what we have to compete.

Senator Mikulski. We would really welcome from you a list of recommendations on how you think we can do that. We have already talked about the issue of day care. As I said, you have excellent people.

Secretary Baker. Thank you, Senator.

Senator Mikulski. Mr. Chairman, I have no further questions. We would welcome the recommendations of the Secretary.

Senator DeConcini. Does the Senator have questions that she wants to submit for the record?

Senator Mikulski. No; I think that is about it.

THIRD INSTALLMENT OF THE REVENUE INITIATIVE

Senator DeConcini. Mr. Secretary, real quick, I know you have a 2 o'clock meeting. Let me quickly ask you. Later today, we are going to hear from Mr. Robert Tobias of NTEU, who is going to present some interesting testimony focusing primarily on the IRS.

NTEU is supporting our drug bill in large part because it recognizes the need to increase tax collections. They also endorse our specific additional funding for IRS in fiscal year 1989, $286.6 million and 6,842 additional positions.

Regardless of how you feel about the drug bill, putting that aside now, why doesn't it make imminent sense, summit or not, to put these additional resources into the IRS next year in order to increase tax collection and reduce the deficit?

Secretary Baker. Why did we not include the third installment, is that your question?

Senator DeConcini. Yes, sir; it certainly is.

Secretary Baker. The reason we didn't include it, Mr. Chairman, was because of the budget summit agreement. We met the requirements of it without including it. You and I don't know as we sit here whether or not we are going to have a possible Gramm-Rudman-Hollings sequestration in the fall or not. We don't think we will. We believe we won't. We don't know what requirements for revenues we might have for the balance of this year or into next year.

The thinking was that since we had spent 1 month hammering out in exquisite detail the funding levels for spending and for raising revenue, we ought to stick with those levels and be as precise about it as we could. If there are any revenue opportunities, we ought to save those for a time when we might need them.

That answer means, of course, that we have not ruled out the possibility of going forward with that at a later time. We specifically did reserve the right and we have made it clear to the Office of Management and Budget that we still have an interest in this initiative. We thought that it was a good initiative when we announced it back in 1986, and we would like to see it completed at some time.

Senator DeConcini. Did you request this initiative of OMB this year?

Secretary Baker. Yes; we did.

Senator DeConcini. And you were turned down. As far as you are concerned the time is there from your own point of view that you ought to go ahead with it, but OMB and the administration as a whole decided to hold to the summit meeting.

Secretary BAKER. To hold to the summit meeting, yes.

I really believe that had there not been a budget summit agreement, that would have flowed right on through the budget process.

Senator DECONCINI. OK, Mr. Secretary, I realize that the time is drawing short. I have several other questions on the IRS budget and some of their problems with their personnel. Could you have your staff get back to us on some of the pay increases and the turn over that you unfortunately have in there?

Secretary BAKER. We will be glad to.

Senator DECONCINI. To go back to this revenue, if we didn't have a drug bill, and if Commissioner Gibbs is correct that you could raise $1.2 billion by investing $286 million more, it just seems an opportunity that you ought not to pass up. Are you telling me that you kind of hold it in reserve in case we don't make the deficits. Is that why it is not being used? Or are you saying that we still might come forward.

Secretary BAKER. What I am really saying, Mr. Chairman, is this: The budget summit negotiations were a bargaining over spending cuts, on the one hand, versus revenue increases, on the other. It appears, unfortunately, that that is where we are now in this country, at least under the current makeup where the executive branch is controlled by one party and the Congress by another.

We are interested in getting some real cuts in spending. In the budget summit negotiations, as Senator Domenici knows, we were asked to pay for those. We are willing to pay provided we know we are going to get some real cuts. Therefore, we ought not to waste our ammunition and our ammunition is whatever revenues we have that we could support. This is an element of revenue that we can support, and before we put it on the table we ought to know that we are going to get some reduction in spending. That is the theory whether you agree with it or not.

Senator DECONCINI. Then you are saying that if you can't get the reductions in spending, you are not that interested in collecting an extra $1.2 billion that would reduce the deficit.

Secretary BAKER. No; we are, but we want to make sure that it is used to reduce the deficit.

Senator DECONCINI. I understand.

Secretary BAKER. If we don't agree to it at the right time, it won't go to deficit reduction, it will go to some other kind of spending out here.

Senator DECONCINI. I understand.

I have no further questions. Does the Senator have any?

INTERNAL REVENUE SERVICE SPECIAL PAY RATES

Senator DOMENICI. I would just make this observation with reference to the IRS. Mr. Secretary. While I will support an added amount of money for them in exchange for their estimate of revenue enhancement for the purpose of the drug bill in whole or in part, the whole bill or something less than, I think there is a growing issue there in the Department as to the filling of the vacancies that are created by new funding with very competent people. Consequently, there may be a justification for slowing the pace slightly while they begin to fill the niches that we have already authorized. They have a lot of vacancies that they have not been able to fill because of the applications.

While in the Department of Treasury there are still a lot of people who want to join you, as auditors, lawyers, and the like, those that want to join the IRS are getting much smaller, in terms of the numbers and quality of people. As a matter of fact, we have openly suggested that maybe there ought to be some special pay ingredient for the IRS for a while in order to attract some of the better talent around.

We have expressed a willingness to even pay them more in some of the categories like attorneys and auditors, but we can't do that without some authorizing committee helping us. You do know the numbers. They are having difficulty filling many of the very essential audit roles.

Secretary BAKER. We have confronted that problem, as I mentioned earlier, Senator Domenici, to the extent that it is geographical, where you are out there competing in an area that has that much higher salary levels.

Senator DOMENICI. On the other hand, I think that it is imperative that you and others, especially you with great credibility and a sense of fairness, properly explain this to the taxpayers. As we add to the IRS in order to do audits, the average American thinks we are camping an auditor in everyone's frontroom, while the facts are that 10 years ago we audited far more of the tax returns than we are today. We are not even getting close to our high as I recall the numbers in terms of pulling them out of the computer for random auditing. We are very low in proportion to where we were 7, 8, or 9 years ago.

Secretary BAKER. That is true.

Senator DECONCINI. Compliance is coming down.

ADDITIONAL COMMITTEE QUESTIONS

Mr. Secretary, thank you. We will all submit our questions.

Secretary BAKER. Thank you, Mr. Chairman, very much.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

DEBT COLLECTION PROVISIONS IN S.2205

Senator DeConcini: Mr. Secretary, as you may know, I have incorporated a number of the debt collection provisions of S.1270 -- a bill that I introduced last May -- into Title X of the DeConcini-D'Amato-Domenici drug bill. S.1270, you will recall, was a debt collection bill that the Administration supported last year as part of a Grace Caucus legislative package of bills designed to make government more efficient. Title X, among other things, establishes in the Department of Treasury, an Under Secretary for Debt Collection and Credit Management who would be the principal advisor to the President with respect to Federal credit management and debt collection policy.

The bill also puts a full load of requirements on you, as Secretary, to stimulate more collection of delinquent debts owed the Government.

Q: What is your view on the provisions of Title X of S.2205 with regard to debt collection?

Secretary Baker: We support and encourage efforts to improve Federal credit management and debt collection policy. However, the Anti-Drug Abuse Act of 1988, which contains the debt collection provisions of S.1270, is still under Administration review. Until that review is completed, we will not have a formal position on any components of the legislation.

REVENUE PROVISIONS OF S. 2205

Senator D'Amato:

Senator DeConcini: What are your views on the additional collections that could be made with the additional funds and staff called for in S. 2205, the Omnibus Anti-Drug Abuse Act of 1988? And what other methods can we use in fiscal 1989 to offset the cost of additional anti-drug spending with additional collections of existing debt?

Secretary Baker: It would be preferable to pay for additional anti-drug efforts by reallocating money to this area from lower priority areas of the budget for domestic programs. There is a question about whether the additional revenue and spending required by S. 2205 would violate the recent Budget Summit. We believe that the economy is well-served by leaving that summit agreement intact.

If it is not possible to reallocate funds within the domestic portion of the budget, then I think it is important that we get the Budget Summit conferees together to address this issue. It is important that anything we do be consistent with the expectations of the conferees.

It is vital that this nation reduce its spending. The Budget Summit specified total levels of revenue, not just tax rates. This is because it is important that we not generate additional revenue for the sake of increasing government spending. We also oppose earmarking of revenue for spending on special projects.

We are concerned about the accuracy of the revenue estimate for the ATF section of this bill. Further, the President's Budget proposes that we be aggressive in collecting debts. It is important not to double count the receipts from this effort.

CUSTOMS SHORTFALL IN MAINTAINING CURRENT LEVELS

Senator DeConcini: How do you respond to information that Customs will need a substantial increase over the President's "hold the line" budget for personnel ($34-35 million) and air interdiction (for the P3/AEW project) just to keep ongoing programs on track for another year?

Secretary Baker: We do not believe it. The dollar figure you refer to is merely the total cost of maintaining current levels, which our request funds. Customs received $2 million more for the cost of maintaining current levels than its original request to the Treasury Department.

The need for funds to maintain current levels is offset by savings from one-time costs of the FY 1988 budget, from a reduction in the cost of retirement contributions to FERS, and from equipment transferred to the Coast Guard.

With regard to the alleged need of the P3/AEW program, we also believe the account to be fully funded. It is our policy that we will not seek funding to modify an additional P3 aircraft with 360 degree radar until and unless the first such effort proves successful. We are fully aware that the Senate report on the FY 1988 budget directed Customs to do otherwise. However, the House report did not agree, nor does the Conference report or the Continuing Resolution.

NTEU TESTIMONY/IRS/TAX GAP DATA

Sen. DeConcini: Mr. Tobias also provides some very damaging statistics about our growing "tax gap", citing a recent IRS study that estimates the tax gap at $87 billion this year and $113.7 billion by 1992. They also cite data showing that our tax compliance problem is in part due to a 49% growth in delinquent payroll taxes since 1982; and under-reporting of interest and dividend income by U.S. Corporations that is costing the Treasury an estimated $8 billion a year. They go on to recommend the establishment of 90% Compliance as a national objective for the Government. Currently we are at about 82%.

What are your views regarding IRS measures being taken to close the tax gap and to increase taxpayer compliance? And what about the plan to set a 90% compliance goal for the Federal Government?

Secretary Baker: We seek to support the highest level of compliance, and expect that our current enforcement efforts do have a positive effect on the voluntary payment of taxes, although such a behavioral effect is not measurable. We seek to ensure equity to those who do pay their taxes voluntarily.

An absolute numerical goal has questionable utility and merit, especially since voluntary taxpayer behavior results from many factors. We expect the Tax Reform Act to have a salutary effect on voluntary compliance. The projected growth in the tax gap is partially attributable to real expansion of the economy and inflation.

NTEU TESTIMONY/IRS TURNOVER AND RETENTION PROBLEMS

Sen. DeConcini: Mr. Secretary, one of the problems facing the IRS is the problem of retaining and recruiting the "best and the brightest" to help the agency with its massive and complex job. NTEU will testify later today that the turnover at IRS is 11.3% each year. This forces IRS to spend millions on training and recruiting, only to lose their best people to the private sector accounting firms and other firms. According to a study by the American Enterprise Institute, IRS has almost no chance of hiring computer science majors out of college.

What specific recommendations would you be willing to make to stem the tide of turnover at IRS and to alter pay or other incentives to put IRS in better position to get the better college graduates and professionals?

Secretary Baker: We have already obtained approval for special salary rates for Internal Revenue Agents in New York.

We are looking into the possibility of applying this special salary rate authority to other occupations and geographical areas with similar recruitment and retention problems.

Other measures being used or considered for recruitment and retention include: reducing hiring delays by securing direct appointment authority from the Office of Personnel Management, paying relocation expenses for new recruits, establishing full time recruitment coordinators, collecting profiles of successful recruits establishing fitness centers and child care facilities, establishing employee counseling programs, and participating in leave sharing demonstration projects.

SOUTHWEST BORDER FACILITY IMPROVEMENT PROGRAM

Senator DeConcini: As the head of the Department that contains perhaps our most important border agency -- Customs -- what is your view about the need to fix up the border facilities along the southwest border?

Secretary Baker: Customs identified a number of problems in a report to the Congress, which agreed with some of the issues we identified in the form of an appropriation and related report guidance to the General Services Administration.

We believe that the funding and guidance provided to the General Services Administration will alleviate the most significant problems on the southwest border. Better facilities will help speed border crossings and improve the safety of Customs employees.

The Border Improvements Task Force, composed of GSA, Customs, INS, and the Department of Agriculture has met twice. It serves as the forum for coordination of the needs of all of the Federal Inspection Services.

Uniformed Division Pay Raise

Senator DeConcini: Mr. Secretary, there has been some confusion around here about whether or not Treasury actually requested a 13% pay increase for the Uniformed Division of Secret Service, or whether the Department only requested the staggered pay scale adjustment that is currently in effect (February 28th it took effect). I am informed that at least an informal request went from Treasury to OPM for the 13% pay increase but OPM only approved the so-called 12-8-6-4% pay adjustment. Secret Service now says that it may resurrect its request for a 13% pay raise. What is your view on the need for a 13% across-the-board pay raise for the Uniformed Division of Secret Service vs. the pay raise they received on February 28?

Secretary Baker: We recently received a request from the Secret Service for the 13 percent pay raise. The Department will carefully consider the proposal. We will need some time to see if the need appears to be justified in light of recruitment and retention under the new scale created by the graduated increase. In any case, only OPM can make the final determination of need.

VIEWS ON OPERATION ALLIANCE

Senator DeConcini: What is your assessment of Operation Alliance to date and how can we make it work better under this Administration and the next?

Secretary Baker: We are pleased with Operation Alliance, especially now that the start-up effort is nearing completion.

1987 seizures were much higher than those of 1986. In kilos, the following are the 1986 to 1987 changes in Operation Alliance seizures by drug: cocaine, from 1,807 to 8,520; heroin, from 27 to 53; and marijuana, from 60,409 to 135,492.

We have made a major effort to establish standard operating procedures with our state and local law enforcement partners. In addition, we have engaged in substantial sharing of assets. Customs has loaned 512 voice-privacy radios to state and local agencies and distributed over $3 million of seized assets to these agencies.

We are aware of criticism of the effort, but disagree with it. Any law enforcement effort of this magnitude requires lead time for hiring of staff, procurement of equipment, and clarification of responsibilities with the numerous Federal, state, and local agencies involved. Some coordination problems are inevitable in the beginning. Neither will all of the resources committed to the project be in place on day one. As the effort itself has undergone continuous change, a major written report is necessarily out of date by the time of publication.

QUESTION SUBMITTED BY SENATOR BARBARA A. MIKULSKI

Question: What actions is the Department taking to recruit and retain high quality employees?

Answer: The Department uses a wide variety of human resource techniques to recruit and retain a highly qualified workforce. We have obtained direct hire authority from the Office of Personnel Management for a number of occupations that contribute directly to mission accomplishment. For example, we have this authority for Treasury Enforcement Agents, GS-5/7, for positions in

Customs, IRS, and ATF. As a result of this authority, we decreased the time required to hire individuals for these critical positions. We also have nationwide direct hire authority for IRS Revenue Agents, GS-5/11. This authority enables the IRS to reduce the amount of time normally required to recruit and examine applicants.

We also have utilized a variety of other recruitment tools to assist in this area. For example, we have obtained from OPM excepted service authority under Schedule B to hire directly for 23 management, administrative and specialist occupations at the GS-5/7 level. This authority allows us to recruit applicants for positions formerly filled by the PACE examination. Applicants can be non-competitively converted to career-conditional appointments after two years. We also use delegated examining authority to fill marketing specialist positions at the Mint, and will be requesting the authority for instructor positions at FLETC.

To compete more successfully with the private sector, the Department has also been very active in using the pay flexibility provided by the special rates authority. When we document recruitment or retention problems and believe increased pay can help us maintain appropriate staffing levels, we seek special rates from OPM. Recently we obtained special pay rates for IRS data transcribers in Atlanta and at our Brookhaven Service Center, for clerical employees in Los Angeles, Miami, New York, Chicago, and San Francisco, for police officers in Washington, D.C. for Internal Revenue Agents in New York City, and for the recent legislative change to extend the special rate authority. We successfully used this expanded authority to obtain special rates for the Uniformed Division of the Secret Service.

We are also exploring the payment of travel and transportation expenses to the first post-of-duty for IRS Revenue Agents on a nationwide basis, and for clerical employees in Washington, D.C. This will serve as a recruitment incentive for hard-to fill positions.

U.S. POSTAL SERVICE

STATEMENT OF ANTHONY M. FRANK, POSTMASTER GENERAL

ACCOMPANIED BY:

MICHAEL S. COUGHLIN, DEPUTY POSTMASTER GENERAL
COMER S. COPPIE, SENIOR ASSISTANT POSTMASTER GENERAL, FINANCE AND PLANNING
LOUIS A. COX, GENERAL COUNSEL

WELCOMING POSTMASTER GENERAL

Senator DECONCINI. Next we will hear from Mr. Anthony M. Frank, the Postmaster General of the United States.

Mr. Frank, we welcome you to your first appearance before the subcommittee. You have a tough job ahead of you. Congress did not make it any easier last year, nor has the President made it any easier in eliminating most of the revenue forgone and postal subsidy in fiscal year 1989, nor has the OMB Director made it any easier by statements of privatization of the Postal Service.

The Postal Service in my view, Mr. Frank, has its problems like any large business, but I know of no workers who are more productive, and I don't know of any company that is better managed. Sure, we see problems in that company that you manage, but you really are the quarterback of an outstanding team, and maybe the manager as well, as well as the bill payer.

We welcome you here, and we on this committee want to work with you. We would ask that you introduce the people who are with you, and after you summarize your statement, we have a few questions.

Mr. FRANK. Thank you, Mr. Chairman, and members of the committee.

It is a great pleasure for me to have this first opportunity to meet with the committee. Thank you for your statement of understanding of our problems and for your kind remarks about our people.

With me here today are General Counsel, Mr. Lou Cox, our Deputy Postmaster General, Mr. Michael Coughlin, and our Chief Financial Officer, Mr. Comer Coppie.

As you noted, I filed a statement with the committee. The gist of it is that we are revising downward our appropriation request under the revenue forgone provision by about $91 million.

PREPARED STATEMENT

With that statement, Mr. Chairman, I and my associates are happy to answer any questions you might have about that, or any other topic.

[The statement follows:]

STATEMENT OF ANTHONY M. FRANK

Mr. Chairman, it is a pleasure for me to have this first opportunity to meet with this committee.

REVENUE FORGONE APPROPRIATION

This year the President's budget submission indicates that the Administration will submit a legislative proposal, similar to the one submitted last year, to repeal the existing authorization for appropriations to support reduced-rate mail. The proposal would continue reduced postage rates for most of the currently eligible categories, with some reforms. But their share of postal overhead costs, until now paid through the revenue forgone appropriation, would be paid instead by other mailers, through some addition to regular postage rates.

Relying on this legislative proposal, the President is requesting a revenue forgone appropriation limited to paying for free mail for the blind and for overseas voting. The amount requested for this purpose is $19 million.

Without a change in the law, the total appropriation needed to maintain reduced rates as well as free mail at the full authorized level in Fiscal Year 1989 is $436,417,000. This figure takes into account the so-called "equal markup" accounting provision of the budget reconciliation legislation for Fiscal Year 1987, which took effect along with the April 3 general postage rate adjustment. Under "equal markup" the amount of the appropriation per piece is measured by the difference between the reduced rate the mailer pays, and what he would have paid if his rate included the same percentage "markup" for overhead as is charged for ordinary mail of the same class.

The amount now required is less than the amount shown in the Postal Service's budget submission for Fiscal Year 1989, which was $527,482,000. This difference results from the new rates implemented April 3, which reflect certain changes recommended by the Postal Rate Commission and approved by the Governors of the Postal Service.

The $436,417,000 current-law appropriation level this year includes a reconciliation adjustment of $52,997,000 in favor of the Treasury. This adjustment comes from the final audit of reduced-rate mail volume for Fiscal Year 1986 as required by law. Apart from this offset, the full revenue forgone amount for Fiscal Year 1989 under current law is $489,414,000.

TRANSITIONAL APPROPRIATION

This year, the President's recommendation for the Postal Service does not include a request for an amount to be transferred to the Department of Labor to cover workers' compensation benefits relating to the former Post Office Department. By law, these amounts remain a liability of the United States. The Administration decided to have the Department of Labor request this appropriation directly, starting this year.

PUBLIC SERVICE APPROPRIATION

While authority remains on the books for an annual public service appropriation to the Postal Service, this appropriation has not been necessary since Fiscal Year 1982 and none is requested this year.

BUDGET REDUCTION

For the first time since postal reorganization in 1970, last December's Budget Reconciliation Act restricted both the operating and capital budgets of the Postal Service, for Fiscal Years 1988 and 1989. New capital commitments were cut back nearly $2.4 billion. Capital investments are a key to achieving improvements in productivity, service, and working conditions that will benefit the public for many years.

Cuts of this magnitude have required deferral of a great many projects which local communities across the country had been waiting for, in some cases for years. Local citizens and Members of Congress who had worked with us to bring about these improvements are disappointed, and understandably so. The Postal Service would like to proceed with these projects, but commitment ceilings in the law simply leave no room for them at the present time. The sharply reduced amounts we are permitted to commit for capital purposes will be required to keep our major automation programs on track and fill other immediate needs. It is critical that the Postal Service retain the discretion to assign what funds are still available to us to cover the most compelling needs.

This new kind of limitation on the Postal Service budget is harmful to the Nation's postal system and will not benefit the cause of federal deficit reduction over the long term. With the exception of appropriations approved by this Committee which substitute for part of the postage we would charge for special types of mail, the postal system must pay for itself through postage rates. Over the years since postal reorganization, the Postal Service and its customers have shown themselves well able to provide the funds required to build a self-sufficient, modern, and successful postal system as Congress intended. Whatever adjustment to the federal budgetary procedures is required to avoid a repeat of last December's postal budget limits and to restore the integrity of the Postal Reorganization Act would serve the postal system and the country well, in our view.

We will be pleased to respond to any questions.

REVENUE FORGONE—PRESIDENT'S PROPOSAL

Senator DeConcini. Thank you, Mr. Postmaster General.

The Senator from New Mexico has another important meeting to go to, so I am going to yield to him in just a minute.

Mr. Postmaster, in the document, "Major Policy Initiative," which accompanied your fiscal year 1989 budget, President Reagan proposes eliminating virtually all revenue forgone and subsidies for nonprofit organizations, and other mailers, such as libraries, educational foundations. He proposes funding the revenue forgone program at a level of $19 million, which is a 96-percent reduction. This money would only be used for the blind and overseas voter mail.

He justifies the drastic cut by charging abuse of the subsidy by certain mailers, the unintentional subsidizing of political trade and advertising mailing, and the need to increase rates for unsubsidized mailers to cover the cost to the subsidized mailers.

The Senator from New Mexico wants to take up that subject matter, I will be glad to yield.

Senator Domenici. Mr. Chairman, I would very much like to do that, but I will only take a minute of your time and of his time, and then submit questions for the record.

REVENUE FORGONE—LEVEL OF SUBSIDY

I am somewhat disturbed. Let me state it the way I see it. First, what savings resulted from the April 3 general postage rate increase date versus the June 1 date previously contemplated?

Before you answer that, let me state what I am concerned about, a further question. What savings resulted from the so-called equal mark up method of determining the amount of subsidy which took effect on April 3?

Why were the percentage increases and rates paid by preferred mailers adjusted downward from those previously anticipated in order to use the full $517 million appropriated rather than allowing the savings from equal mark up to accrue?

Does this have the effect, and I think it does but maybe I am wrong, of raising the subsidization of the overhead costs of these mailers from 80 to 100 percent, when Congress had intended to continue current subsidy levels when it appropriated the $517 million in revenue forgone?

I think we have heard that somebody within your Department said that you had no alternative, that you had to spend the $517 million and so you did it. I think, frankly, that you put us in a real bind, because we want to spend less on revenue forgone, and we assumed that we might be able to when you had a rate increase, that you would continue the current levels of subsidies for preferred mailers. Now, because equal markup kicked in and you moved your rate increase up from June to April, the level of subsidization has increased to 100 percent.

Now, we are going to have to take it down or appropriate more money. I think that it is a very critical issue. It is roughly $100 million which we may not have in this subcommittee.

You might get that answered for us, Mr. Chairman, before we have to appropriate.

Senator DECONCINI. Mr. Frank.

Mr. FRANK. As I noted, we are asking for $436.4 million. That is a product of three items. One is the increase in rates, as you mentioned; the second is the equal mark up; and the third is a refund from the 1986 year as is required by law, the most recent audited period. The revised total is $91 million less than originally requested.

I would like Mr. Coppie to speak specifically to your points.

Mr. COPPIE. Mr. Chairman and Senator Domenici, under the requirements of law, the preferred mailers are required to pay the attributable costs or step 16. Commencing with the fiscal year 1989 appropriation, assuming that it stands, they will be paying attributable costs.

Beyond that, we are also required to implement, commencing with the recent rate increase, the equal mark up provision, which requires us to have the preferred mail pay up the same markup on cost coverage as a commercial mailer.

We feel that we have met the requirements of law, and we also feel that the request is consistent with the current legal requirements.

Senator DECONCINI. It is correct that you have raised the subsidy to 100 percent instead of keeping it at 80? Do I understand that correctly?

Mr. COPPIE. Mr. Chairman, let me just go through the steps that we have followed in terms of the request for fiscal year 1989.

Senator DECONCINI. Would you?

Mr. COPPIE. Back in 1986, at the time the Gramm-Rudman-Hollings legislation impacted and the revenue forgone appropriation was reduced, the preferred mailers were required to pay beyond their attributable costs. They were required to pay above step 16. This year, with the request that we are making, we are proposing that they pay at step 16.

Senator DECONCINI. Is that 80 percent?

REVENUE FORGONE—EQUAL MARKUP PROVISION

Mr. COPPIE. It is at attributable costs. They will be paying at attributable costs, which is a statutory requirement. Beyond that, the request for fiscal year 1989 is premised on a new requirement, an equal mark up requirement that is to take effect January 1, 1989, or at the time of the rate increase, whichever comes sooner.

Because the rate increase is now in effect, we are implementing the equal mark up provision and that has the effect of reducing our appropriation request for fiscal year 1989 on an annualized basis by about $300 million.

We are simply carrying out the requirements of law as they relate to this request.

Senator DECONCINI. I don't understand what happens to the savings. The rate increase went into effect, so in essence you had more money there, which you didn't apply to the revenue forgone. Is that right?

Mr. Coppie. Mr. Chairman, the request for fiscal year 1989 from the Postal Service to the administration was based on a June 4 effective date.

Senator DeConcini. Let's talk about 1988. What happened to the savings in 1988 based on the new revenue?

Mr. Coppie. The savings in 1988, to the extent that there will be savings, will be adjusted in the reconciliation in the fiscal year 1991 request.

Staff. When savings are realized through the equal mark up method, additional money is available to you out of the $517 million appropriated. Is that correct?

Mr. Coppie. For the current year, yes.

Staff. As a result, you did not increase the rates for preferred mailers as high as you had first anticipated they would be increased. You took them up to a subsidy level which allows the $517 million appropriated to be used.

Senator DeConcini. Is that correct?

Mr. Coppie. What we are saying is that we are carrying out the provisions of the law as they currently impact on this request.

The equal mark up requirement states that it is to go into effect January 1, 1989, or at the time of the next rate increase, whichever comes sooner. So when the rates increased on April 3, the equal mark up provision took effect at that point in time.

Senator DeConcini. You had no alternative then?

Mr. Coppie. That is correct, Mr. Chairman, that is what I am saying to you.

Senator DeConcini. The new revenues are to apply toward this.

Mr. Coppie. That is correct, Mr. Chairman.

Senator DeConcini. Is that the law?

Mr. Coppie. That is correct, Mr. Chairman. We feel we are carrying out the requirements of the law.

Staff. But in doing that, the amount of subsidy for these mailers increased. Is that correct?

Mr. Coppie. There is an increase for the preferred mailer, that is correct.

Senator DeConcini. An increased subsidy.

Mr. Coppie. That is correct.

Senator DeConcini. Because you raised the money from the new rate increase. So actually more of it went to them for a subsidy above the $517 million.

Mr. Coppie. That is correct.

I would underscore here a basic point about this request. They have been required since 1986 to pay an above step 16 rate, above the attributable costs.

Senator DeConcini. You have been absorbing that.

Mr. Coppie. This will reduce the levels that they are currently paying, down to step 16 or attributable costs. At the same time, there will be an increase in these preferred rates as a result of the general rate increase, and we are required to implement the equal mark up provision.

Senator DECONCINI. What do you need in 1989 to keep it at this level?

Mr. COPPIE. $437 million.

Senator DECONCINI. Without equal mark up, by continuing the same rate structure you would save more. Is that right?

Mr. COPPIE. Without equal mark up, the Congress would have to appropriate approximately $300 million more.

Senator DECONCINI. The mark up is going to pay for that?

Mr. COPPIE. That is correct.

The effect of the equal markup is to reduce the amount that is paid from general taxes.

Senator DECONCINI. Maybe I understand it, but I am going to ask you to present that to us for the record here so we can have a clear understanding. I am satisfied that you understand it, but I am not sure that I do, and I would like to understand it.

As part of your explanation through 1987, 1988, and 1989, preferred mailer categories, could you give us the rates which became effective on April 3 as compared to the rate currently in effect, and the rate increase assumed when the $517 million estimate was made last year? This would help me.

Mr. COPPIE. Yes, Mr. Chairman.

Senator DECONCINI. Thank you.

[The information follows:]

COMPARISON OF RATES FOR ILLUSTRATIVE EXAMPLES OF PREFERRED RATE MAIL CATEGORY PIECES UNDER OLD RATES, CURRENT RATES, AND USPS PROPOSED RATES

Class of service	ILLUSTRATIVE EXAMPLES [1][2] Old rates rates [3]	Current rates [4]	USPS proposed rates [3]
Second-class publications:			
In-county (cents)	5.4	5.6	5.8
Percent		3	8
Nonprofit (cents)	8.7	9.8	10.3
Percent		13	19
Classroom (cents)	13.1	14.5	14.6
Percent		10	11
Science of agriculture (cents)	11.0	13.4	12.6
Percent		22	15
Third-class nonprofit:			
Carrier route presort (cents)	5.5	5.3	5.2
Percent		-4	-5
Presorted to five digits (cents)	7.1	7.6	7.8
Percent		7	10
Required presort (cents)	8.5	8.4	8.7
Percent		-1	2
Fourth-class library rate (cents)	73	87	82
Percent		19	12

[1] See illustrative examples below.

DESCRIPTION OF ILLUSTRATIVE PREFERRED RATE EXAMPLES

SECOND-CLASS PUBLICATION

- In county:
  - Rural newspaper:
    - Frequency: Weekly
    - Weight: 4 ounces
    - Advertising: 50 percent
    - All delivered in county
    - Presorted to carrier route
- Nonprofit:
  - Veterans' magazine:
    - Frequency: Monthly
    - Weight: 4 ounces
    - Advertising: 20 percent
    - New York to Chicago
    - Presorted to five digits
- Classroom:
  - Classroom publications:
    - Frequency: Weekly
    - Weight: 12 ounces
    - Advertising: 15 percent
    - New York to Chicago
    - Thirty-two copies per piece
- Science of agriculture:
  - Rural agricultural newspaper:
    - Frequency: Weekly
    - Weight: 4 ounces
    - Advertising: 50 percent
    - Within 150 miles of entry
    - Presorted to five digits

THIRD-CLASS NONPROFIT

- Fundraising letter:
  - Weight: 3/4 ounces
  - Nationwide distribution
  - Carrier route presort
  - Presorted to five digits
  - Required presort

FOURTH-CLASS LIBRARY RATE

- Book between libraries:
  - Weight: 2 pounds
  - New York to Chicago

[2] Percent changes from the old rates are shown under the rates.

[3] Rates are above attributable cost levels.

[4] New attributable cost level rates implemented on April 3, 1988.

POSTAL SERVICE PRIVATIZATION

Senator DECONCINI. Now that that little matter is cleared up and behind us, Mr. Postmaster, you also have other problems that I want to address.

In the President's documentation, he talks about the major policy initiatives. The President proposes that the Postal Service implement several pilot projects. One project would include contracting with retail stores to provide routine postal services such as stamp sales, parcel post, express mail, et cetera. Other proposals include contracting with private presort companies to process large volumes of mail instead of constructing new postal facilities, et cetera, et cetera.

I read in the paper some of your disagreements with Mr. Miller. I wonder if you would like to explain for us, on the record here, what is your opinion, whether personal or as Postmaster, we would prefer them as Postmaster, regarding the privatization issues that are some of the major policy initiatives of the administration.

I don't say that to get you in trouble, or anything. I think you are very secure and safe. I just would like to kind of draw the line here because I oppose these privatization proposals. I think the Post Office does a good job, but I would like to know what you think, the people who have to actually run it.

Mr. FRANK. Mr. Chairman, privatization seems to mean a great variety of things to different people, the most illustrative is what you just read there. I think to many of the so-called privateers, it comes under the heading of destroying the monopoly, the private express statutes, which I am firmly against.

UNIVERSAL SERVICE AND RATES

Our Constitution provides for a universal mail service, and I think we do it well. Can it be done better? Of course, anything can be done better. But we do it quite effectively and certainly charge the lowest first-class rate of any major or minor industrialized country in the world, to the best of my knowledge. I am against destroying the monopoly.

Other people have suggested that privatization means letting the private sector take over that part that is profitable, and leave to the Postal Service the part that is unprofitable.

For example, we change 40 million addresses a year, because people move, but there is no money in that. We deliver in dangerous and difficult parts of town; in the rural areas. We have postal inspectors looking after the sanctity of the mail. Each of these are high-cost, unprofitable activities taken by themselves. But their costs are covered by the universal rates we charge.

To those people who say that privatization means carving up the Postal Service and letting the private sector have the profitable part, and that we keep the unprofitable part, I am against that.

Being, perhaps be more candid than I should, to some people, privatization means union busting and getting rid of the unions. I am against that.

On the other hand, as what you have just read indicates, we already do business with the private sector. Over 13 percent of our expenses go to contract out with private companies, mainly for transportation or mail, rents, utilities, supplies, and services. Of course, we do sell stamps in supermarkets and in contract stations around the country, and we expect to do more of that. We also provide incentives, big incentives to major mailers to sort their mail in zip code sequence before it gets to us.

My own feeling is that we can do more of that, and should do more of that, both contracting out and work sharing, as a way to drive down our costs while still keeping universal mail service. This is the way for the Postal Service to go.

I don't disagree violently with the examples that have been chosen by the administration in the 1989 budget. Indeed, we already do many of them. Can we do more? Of course, we can.

PRIVATIZATION PROJECT IN ARIZONA

Senator DeConcini. I know, in Earl Valley, AZ, in the Tucson area, your Postmaster, Arnold Diaz, and I just went to a dedication there of a privatization project where you contracted with a local business person to offer lock box service. Your people have been out there training them.

They have a hotline to call in during any working hour to get advice. It is the only way that these people who live about 35 miles from town could have a post office. There was no way you could put it in there. I tried my best for some years to get one in there. It is a very sad fact. I hope the people can make a living at it. That is my only concern.

Indeed, it isn't apparently that the Postal Service is adamant against any privatization projects, it's you just don't want the good revenue ones taken because that is what carries the load for you. Is that correct?

Mr. Frank. Yes; we certainly don't want to break the monopoly on the private express statutes to have everyone have access to and from the individual mailbox. Where that leads us is almost impossible to imagine.

We now do about 13 percent of our costs in contracting out. It would be a statistical marvel if that was exactly the right figure. I am sure it is not. I don't happen to know what the right figure is, but we are going to keep that up.

Senator DeConcini. Those contracts are motivated by cost savings primarily. Are they not?

Mr. Frank. That is correct.

Senator DeConcini. The fact that you cannot build a new post office and cannot fully man it, woman it, or person it?

Mr. Frank. I think that is all that justifies contracting out, it saves everybody money.

Senator DeConcini. And it maintains the service level?

Mr. Frank. Yes, sir.

WINDOW HOUR REDUCTIONS

Senator DeConcini. Mr. Frank, I received a lot of letters, I am sure we all have, with the new rate increase. They don't want to pay any more. Of course, cutting back window hours in neighborhoods is a problem, and they complain about that. I understand that at least one postal union is considering or has filed suit on the matter of closing postal services.

Much of the momentum to curtail services started before you arrived on the job, but can you tell us what specific steps you have taken or will take to reverse the trend toward cutting back postal services in the aftermath of the postal rate increase?

COMPLYING WITH THE LAW

Mr. FRANK. First of all, I am sworn to uphold the laws of the United States. The laws of the United States are that I have to save $160 million in expenses this year, and $270 million next year. While I might have my own views on the draconian nature of these cutbacks, I don't have a choice.

Second, we are examining the results of each accounting period, that is every 4 weeks, whether savings are sufficient to reinstate the window service. The Postal Service, for the preceding 3 years, I believe, worked very hard at expanding window hours and at selling the idea of customer service to our employees. You can imagine what this has done to morale, that after having achieved so much, they are forced to cut back window hours.

We have left to local discretion how and when the 10-percent cut in window hours will be saved during the week. By and large, I would say 85 to 90 percent of the time, that has gone very well.

I hope that we can reinstate the window hours. I really want to. It is almost impossible to explain to the American public the need for a cutback in the window hours in the face of a rate increase. It is too much to ask the average person to understand. It has been difficult for me. But the fact is that they are unrelated. I hope that we can do it.

Senator DECONCINI. Is this primarily a test to see where you are going to get the money. After you achieve the $160 million and more perhaps, are you then going to expand back where you have cut?

Mr. FRANK. Yes.

Senator DECONCINI. Is that what your procedure is, to be sure you have complied with the law, and then expand back up to the amount. Is that what we are talking about?

Mr. FRANK. That is basically it, although I must say we are looking more at fiscal year 1989 with its $270 million than we are at the remainder of this year. It would compound the confusion, I believe, to reopen the windows and than close them again because we were wrong about the expense saving. That would really be a disaster.

Senator DECONCINI. When the $270 million was set for 1989, the new postal rate was not included in that. Was it?

Mr. FRANK. Our revenues are not counted toward the Office of Management and Budget so-called scoring. The revenues just don't count.

Senator DECONCINI. That is right.

Mr. FRANK. We want to, but we are not yet convinced that we have the leeway to do it. We are working very hard on it.

SIX-DAY DELIVERY

Senator DECONCINI. We are a lot of help I know, because we consistently insert language in appropriation bills year after year directing the Postal Office to maintain 6-day delivery and not to close any particular rural post offices. It is kind of hard to do, I guess.

Mr. FRANK. Eliminating 6-day delivery is something that we have never considered.

Senator DECONCINI. You are going to keep that?

CLOSING RURAL POST OFFICES

Mr. FRANK. Yes; we did close some rural post offices last year, just a handful. We exist for other reasons than to make revenue. We exist to give service, it is one of our mandates.

Senator DECONCINI. Are you closing a significant number of rural post offices in this next year?

Mr. FRANK. No; definitely not.

Senator DECONCINI. Less than last year?

Mr. FRANK. Last year, we closed 74, of which 12 were contested. There are all kinds of reasons to close them, including the inability to replace the postmaster when they are the last person in town. [Laughter.]

Senator DECONCINI. How many do you anticipate closing in this next year?

Mr. FRANK. I would guess, on an average, five or six a month.

OFF-BUDGET STATUS

Senator DECONCINI. Last week the Senate overwhelmingly voted in favor of an amendment to the Senate budget resolution offered by my friend, Senator Stevens. This amendment expressed a sense of the Congress that the U.S. Postal Service should be taken off the Federal budget. Additionally, the chairman of the House Post Office and Civil Service Committee, Bill Ford, has introduced legislation to accomplish this goal.

I happen to be in support of this, and I feel placing the Postal Service on-budget a few years ago was really a mistake and more for deficit smoke and mirrors.

What are your views on this, Mr. Postmaster?

Mr. FRANK. In 1970, sir, the Postal Reorganization Act was passed, the central impact of which was to take us off the budget. For whatever reasons, in 1985 we were put back on, ironically by the people who are shouting privatization the loudest. Yet those provisions take away from us any initiative in terms of managing the institution.

We can't consider revenues, we can only consider expenses. We have cut back our real estate investment program by 74 percent. Our average facility is 32 years old. I still believe that the goal of efficiency is a good deal of the answer for the Postal Service, but you can't achieve efficiency in 32-year-old buildings that need a lot of money spent on the roof and other maintenance, that are multilevel, and that won't accommodate the automation equipment.

It is a severe blow to the institution not only to be cut back in that money, but equally as important, from my point of view, to be told where to cut back that money, which takes away all discretion.

Senator DeConcini. If we did not tell you where to cut back that money, could you absorb that $160 million?

Mr. Frank. Yes.

Senator DeConcini. You could have done it?

Mr. Frank. Yes.

Senator DeConcini. What about next year? The same thing, if you were not directed as you were in the reconciliation, you could absorb the $270 million?

Mr. Frank. I believe so. I do want to point out to you that the consequences of reducing our real estate program will stay with us long after we can remember whether or not windows were open on Wednesday afternoons.

The inability to build efficient structures will be a burden to the Postal Service for a decade or longer when we have all forgotten about windows. I appreciate your comment about service, but the real estate program is a bigger and more permanent part of the problem.

Senator DeConcini. If the real estate mandate was lifted, you could find the dollars within your overall budget?

Mr. Frank. Let me consult with my associates before I give away the store.

Senator DeConcini. Maybe you would like to come back with the answer to that?

Mr. Frank. I would like to.

Senator DeConcini. I am just trying to see whether or not it is doable from your best interest, because I think we made a mistake. I think that we put you in a very bad position. Although we need to save the money and reconciliation is not going to be changed, I am not sure that we couldn't address the problem if it could be solved by that.

Mr. Frank. I appreciate your comment. It is too important for someone who will have been here 7 weeks tomorrow to answer off the top of his head. I appreciate your willingness to take our written statement.

Senator DeConcini. If there was an option you would submit that to us and suggest where you would go to reduce it. I would like to see that.

Mr. Frank. I will be glad to.

[The information follows:]

IMPACT OF ALLOWING MORE LATITUDE IN ACCOMPLISHING MANDATED OUTLAY REDUCTIONS

The Omnibus Budget Reconciliation Act of 1987 required the Postal Service to reduce operating expenses by $160 million in fiscal year 1988 and $270 million in fiscal year 1989, and limited new capital commitments to $625 million in fiscal year 1988 and $1,995 million in fiscal year 1989. These restrictions were intended to result in lower Federal outlays of $510 million in fiscal year 1988 and $735 million in fiscal year 1989, thereby reducing the Federal deficit by $1.245 billion over 2 years.

First and foremost it is important to recognize that outlay cuts would not have to be imposed on the Postal Service to reduce the Federal deficit if postal outlays were not included in the calculation of the Federal deficit. This approach worked well for the 12-year period 1974–85 when the Postal Service was off-budget. Including the Postal Service in the Federal deficit calculation is both misleading and inconsistent since the Postal Service, in accordance with its congressional mandate, is financed on an accrued cost basis and charges the cost of capital investments to users over the life of the asset. This business-type financing approach does not affect the Federal deficit over the long term.

The most logical way to prevent postal outlays from distorting each year's Federal deficit is to restore the Postal Service to its off-budget status, thereby allowing it to function as intended by the Postal Reorganization Act without distorting the Federal deficit.

Until such time as off-budget status is restored to the Postal Service, the damage resulting from mandated outlay reductions can be minimized, but not avoided, by not specifying how the outlay reductions are to be achieved.

While such latitude would not change the fact that postal outlays have to be reduced, it would enable the Postal Service to determine how the outlay reduction can best be accomplished. A broad directive to reduce outlays without specifying how to accomplish the objective, would allow the Postal Service to accomplish the reduction through whatever combination of higher revenue, lower operating expenses or lower capital outlays that would be most practical and least damaging to the postal system. While some damage would be unavoidable, such an approach would have prevented the larger than intended capital outlay cuts that resulted from capital commitment caps that were larger than necessary to achieve intended capital outlay reduction targets. It would have also meant that the additional revenue produced by an early implementation of new rates would have satisfied a large portion of the deficit reduction target. It is quite possible that cuts to the operating budget could have been avoided. However, any outlay reductions that could not be generated from increased revenue would have to come from either capital outlay reductions or operating budget cuts. While it is difficult to say what cuts would have actually resulted under such a scenario, it is safe to say the damage would have been less severe.

IMPROVEMENTS TO ARIZONA POST OFFICES

Senator DeConcini. Mr. Postmaster, every Senator has particular parochial post offices that are in great need. As you may be aware, I have been working with the residents of Safford, AZ, and the postmaster in Tucson, Arnold Elias, for some time to improve postal services in Safford.

Report language was included in the 1989 Treasury appropriation bill directing the Postal Service to improve traffic congestion problems at the downtown Safford postal facility, and to work with the Graham County Board of Supervisors on alternative solutions.

Mr. Elias stated to me just a couple of weeks ago that some progress had been made on this problem, but that improvement to the facility has been delayed. The progress there is that one tenant in the building moved out.

Mr. Frank. Yes.

Senator DeConcini. Which had nothing to do with the post office?

Mr. Frank. No; we can't claim credit for some doctors moving out.

Senator DeConcini. Could you provide this committee with a status report on the Safford facility and what steps are being taken to alleviate those major problems, which hamper effective service?

Mr. **Frank**. Certainly, we will be glad to do it this week.

Senator **DeConcini**. That would be good. Thank you.

[The information follows:]

SAFFORD, AZ

The conference report on the fiscal year 1988 continuing resolution directs the Postal Service to improve the traffic congestion problems around the Safford, AZ, Post Office, and to give serious consideration to the alternatives proposed by the Graham County commissioners.

The congestion problem is not now as acute due to the recent departure of a group of doctors across the street from the post office. However, the Tucson division is surveying the area to determine what alternatives are available to provide increased parking for customers and employees. The congestion problem has been exacerbated by the lack of adequate parking and, while increased parking won't eliminate downtown congestion, it will help.

GREEN VALLEY, AZ, FACILITY

Senator **DeConcini**. The other area deals with Green Valley, AZ. A new facility is nearing construction on Continental Road. The residents of that town, however, were surprised to learn that the present post office on Esperanza Boulevard would be closed upon the opening of the new post office.

It is my understanding that the new facility is farther from the town center and may be difficult to reach for some residents. Apparently, a contract station is open or will soon open near the old facility. I would appreciate your providing this committee with the policy and fiscal rationale behind the closing of the older facility. Can you do that for us?

Mr. **Frank**. Of course.

Senator **DeConcini**. Any relief that you can give down there is very helpful. It is a retirement community, as you may be aware. A lot of people do walk to that present facility as they live within the area. Now with the new facility, which is very important for the growth down there, it kind of cuts our nose to spite our face.

Thank you, Mr. Postmaster.

[The information follows:]

A 5-year study was conducted to determine the Green Valley, AZ, growth trend and post office operational requirements to continue efficient service to the community. The study showed that the post office building and mail vehicle maneuvering areas were inadequate. That information, and the unavailability of alternate suitable quarters close to the existing office resulted in a decision to construct a new facility on ample grounds near the high growth area and to move postal operations. Customer convenience was a consideration.

Construction of the new facility is scheduled for completion in mid-June 1988. All postal operations will be transferred 1½ miles away to the new facility. The new post office will provide the same services that the present facility provides. The old post office will be closed because the needs of the community do not justify two post offices.

Customers who currently walk to the post office have not been abandoned. As an added enhancement to their convenience, a full-service contract postal unit [CPU] is now operating in the shopping mall behind the old post office building. Products and services available are stamps, money orders, certified letters, and mailing of packages. The mall location provides the opportunity for customers to combine postal and personal shopping business in one trip.

Customers who presently walk to the old post office and receive delivery from post office boxes are extended the option of converting to free city delivery to their homes, or continuing to rent post office boxes at the new facility. Travel to the mall or new post office will depend upon customer preference. City delivery carriers will assist customers with stamp purchases, money orders, and the mailing of packages.

LACK OF CONTINUITY IN LEADERSHIP

Senator DECONCINI. I yield to the Senator from Maryland.

Senator MIKULSKI. Thank you, Mr. Chairman.

Mr. Frank, I am going to welcome you to the job of Postmaster General. I feel that one of the problems we have had in the Post Office is that after Mr. Bolger left after 7 years of public service, we essentially had a new Postmaster General every 1½ hours.

Mr. FRANK. I would say that that is pretty close to being right.

Senator MIKULSKI. The lack of continuity, I think, has caused many problems. In reading your resume, you certainly bring a distinguished record from the private sector, one of management and innovation particularly in financial affairs. We want to give you a most cordial welcome. Already, I think, in just the way you have been just quite candid and straightforward, enables us to talk about very sensitive solutions to the problems we face. I just wanted to say those things.

Mr. FRANK. Thank you.

COMMUNITY RELATIONS PROBLEMS

Senator MIKULSKI. Mr. Postmaster General, you have many problems at the Post Office, but one of the ones that I would like to talk about, as you are studying the management, is the issue of community relations.

Nobody wants to hear no to window service, and all the other things that you have had to implement due to budget constraints. My post office generally has had very poor community relations. We have community associations and civic groups that are working with local government to anticipate needs in the neighborhood where I live.

For example, putting a lot of technical equipment in a community where there is a high proportion of elderly. Not that you are to be a community relations team, but so much of the crankiness toward the post office comes from that. My question is going to be where can we go with this?

I have been a Senator for 18 months, and I served another 10 years in the House. The problems that we worked on never got solved, because people didn't want to deal with it, are now being blamed on budget cuts. We can't do that because of the budget cuts. Tensions, and so on, rise.

My question is, do you identify that as a management problem? Do you see the need to provide some leadership and training in that direction? Would you share with us your views on that. Nobody wants to hear no, but somehow or other, working with people sometimes helps to solve problems.

IMPROVED RELATIONSHIPS WITH HOUSEHOLDERS

Mr. **Frank**. I share your perception. I have heard several times in my short time at the Postal Service household to household mail is only 5 percent of the total, and there has been an emphasis, it seems to me, in the past of concentrating attention almost exclusively on the large mailers. I think the 100 largest mailers in the United States account for 68 percent of the volume, so you can understand that somebody might want to do that.

My own view is different. Households are important in three ways. One is, they vote.

Senator **Mikulski**. Good man. [Laughter.]

Mr. **Frank**. Second, the bulk of the business mail goes to households. So they have to be receptive toward it. Third, of course, even the large mailers, in their private lives, are households.

I want to emphasize relationships with the household. We have a real leg up, it seems to me, in that the relationship between the carrier and the household has traditionally been an American love affair of the best sort. I think we can reestablish that. The carrier is the person that they see if not six times a week, because both members of the family work, at least 1 day a week when they are home. I want to reestablish that.

It seems to me we have in place a reorganized structure that lends itself to that. I am surprised that more hasn't been accomplished.

DELEGATION OF AUTHORITY

We have had a very interesting experiment in the reduction of window hours. What happened is that Mr. Coughlin and his people, after a lot of work, said: The window hours will be cut 10 percent. That decision was made at headquarters. Then they said to the field: You figure out where and when the 10 percent will be applied.

This to me makes a great deal of sense. The field people know their area. They know what the traffic patterns are, and so on. I think that that has been a success. I want to build on that success in the area of community relations.

But I would be less than candid with you if I didn't tell you that the Postal Service is very hierarchical. It does, for better or for worse, take on the thinking and the coloration of the person at the top.

I built my personal reputation on dealing with Middle America, dealing with just plain folks, and reaching out to service clubs and all the rest, and I want to do more of that in the Postal Service. We will be preparing, for example, a fairly standardized presentation for use by each of our 30,000 postmasters to their local service clubs. If they do that three or four times a year, they will have reached maybe 20 or 30 million Americans. We can do much more.

When we raised the rates on April 3, we, for the first time, sent out a letter to every American home, 114 million letters, telling them about the postal increase in advance. That is the type of thing that we want to do.

Can we be more responsive? Yes; do we need to be? Yes.

Senator MIKULSKI. I think that you are going to provide that leadership, but if I could just give a couple of examples, and then I know that we will have more conversations as the year goes along.

COMMUNITY INPUT TO PLANNING

Some years ago, the postal authorities in Frederick, MD, tore down some historic buildings, a beautiful marble and bronze, antique post office, to make room for one of those modern, clunky buildings to provide more parking.

At the same time, we had a very innovative mayor who was trying to use the very historical nature of Frederick to launch a major redevelopment campaign. Mayor Young was very successful in Frederick except where your clunky post office is. [Laughter.]

My point is that the local people worked with local government, because that mayor had a vision of the city and the post office building lent itself to the very ambience he was trying to create. The post office would have been part of the environment for economic development. That is what I am talking about.

Another example is Route 270 in Maryland, in Montgomery County, in my own State, that we have nicknamed high tech highway. It goes from the District of Columbia to Frederick, MD. It is expanding in terms of both residential housing and also in terms of new business. The Marriott Corp. plans to have its headquarters on that road. We also have many high tech industries that have located there.

Now all the post offices that were planned for that area have been placed on hold due to budget constraints. Of course, OMB and the Congress have given you this absolutely rigid environment to operate in. Again, if you would talk to the people of Montgomery County, they believe that some of the postal facilities could have already been underway had the post office worked with local government, the chamber of commerce, the high tech council.

We know that development is coming so we can anticipate need. It is not like prefab housing after World War II where suddenly a town of 4,000 was created. With planning and effective community relations, we can anticipate the needs that I am talking about.

LISTENING TO COMMUNITY COMPLAINTS

Mr. FRANK. We will try to be responsive. My second week in office, I met with the representatives from Westchester County, NY, concerning some grievances about our Postal Service. The county generates 5 percent of all the mail in the United States. Two days later, on a Saturday, I was there and I saw it myself.

I want to be responsive. With 40,000 facilities, we will make mistakes. We will make fewer mistakes now because we have no money, but it won't always be that way. [Laughter.]

It is interesting to see the pressures that develop in a community. In most communities, everyone wants more postal service, but they don't want the facility located in their hometown. We have had some difficulty reconciling the two needs.

We will try to be more responsive. We will try to listen. I think our delegating the authority down to the division level will lend itself to better listening. If it doesn't, we will take it back.

Senator MIKULSKI. We want to talk to you more about it. I also need to have someone to work with to resolve this Route 270 growth issue, again recognizing the pressures you face.

Let me conclude on a positive note. First, I think your people right at the street level are terrific. When you talk about delivering the mail in difficult neighborhoods, when I was a Baltimore City councilwoman, and before that when I was a social worker, we asked our letter carriers to go into many dangerous areas. Sometimes they are the only contact that people have with government. The elderly wait not only for their mail, they wait to see that man. Often, as you know, your letter carriers have been directly involved in saving lives. We think that they are the best.

Also there are several postmasters or postmistresses who carry on important community functions, like helping somebody fill out that circuit breaker tax form for the elderly. We think, of course, that they are first rate. We would hope that as budget cuts come, it is not affected at that level.

I look forward to working with you. I hope you stay around. I have a 6-year term, and I want you here for my swearing in again. We feel that the only way we can get through this is if we have a Postmaster General who is going to stay.

Mr. FRANK. Not to be facetious, but it is a date. [Laughter.]

Senator MIKULSKI. I am going to write that down. [Laughter.]

Skip the corsage. [Laughter.]

Thank you, Mr. Chairman.

Senator DECONCINI. Thank you, Senator.

ADDITIONAL COMMITTEE QUESTIONS

Mr. Postmaster, we have a number of questions here from Senator Domenici, Senator D'Amato, Senator Byrd, and some of my own, which we will submit to you.

We thank you for your testimony, and we look forward to working with you.

Mr. FRANK. Thank you very much.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

QUESTION. *For Fiscal Year 1988, $517 million was appropriated for the revenue forgone payment to the Postal Service. This amount was your estimate last year of the appropriation required to maintain postage rates for free and reduced-rate mail at their current levels until a general rate increase took effect at the beginning of the fourth quarter of the fiscal year.*

The general rate increase action took effect earlier than assumed, on April 3 rather than June 1 as previously anticipated. In addition, the "equal markup" accounting provision of the Fiscal Year 1987 Reconciliation Act took effect along with the April 3 general postage rate adjustment. I understand that, as a result, excess revenue forgone funds were available. Rather than allowing this savings to accrue, the April 3 general rate increase for preferred mailers raised the level of subsidization for these mailers to assure the entire $517 million appropriated would be used.

First, what savings resulted from the April 3 general postage rate increase date versus the June 1 date previously contemplated?

What savings resulted from the "equal markup" method of determining the amount of subsidy which took effect on April 3?

ANSWER. The reduction in the Fiscal Year 1988 appropriation needed to support preferred-rate mail's contribution to postal overhead costs is caused primarily by three factors: the early implementation of the new rates; differences between the Postal Rate Commission recommendations and the original proposals of the Postal Service; and differences in volume forecasts.

The implementation of new rates on April 3 rather than early June reduced the appropriation requirement by $31 million. The $31 million reduction is the net result of two opposing influences.

First, the cost increases that cause higher rates create a greater subsidy requirement. In this instance, using the higher costs two months earlier resulted in a $10 million greater subsidy requirement.

Second, a $41 million appropriation reduction occurs which offsets the $10 million increase. The reduction is the result of implementing "equal markup" two months earlier than originally anticipated.

The original $517 million amount was based on the early June implementation of rates based on costs and markups proposed by the Postal Service in the rate case. The rates recommended by the Commission, and the costs and markups used to develop those rates, were not identical to those proposed by the Postal Service. The revised subsidy requirement incorporated the Commission recommendations, rather than the original Postal Service proposals. With the Commission recommendations, the appropriation requirement decreased an additional $16 million.

The $517 million was predicated on a volume forecast which was made over a year ago. Small volume differences from the original forecast, compared with the most recent projection, account for a $6 million reduction in the appropriation requirement.

In sum, two major factors account for most of the reduction in the original requirement from $517 million to $464 million: early implementation of rates ($31 million) and differences in the Postal Service proposal and the Commission recommendation ($16 million). The remaining $6 million is due to a revised volume forecast.

QUESTION. Why were the percentage increases in rates paid by preferred mailers adjusted downward from those previously anticipated in order to use the $517 million appropriated rather than allowing these savings to accrue? Doesn't this have the effect of raising the subsidization of the overhead costs of these mailers from 80 percent to 100 percent when Congress had intended to continue current subsidy levels at 80 percent when it appropriated $517 million for revenue forgone?

ANSWER. The Postal Service implemented preferred rates at attributable cost levels because they are the permanent preferred rates mandated by section 3626(a)(2) of the Postal Reorganization Act. Deviation from these rates is lawful in only two circumstances:

1) Rates are adjusted to make up for a failure of appropriation as described in section 3627 of the Act, and/or

2) An appropriation law establishes a different rate level, thus superseding the requirements of section 3626.

Neither of the necessary conditions for increasing the preferred rates above the attributable cost levels are present now. Under the conditions described above, $517 million is sufficient to support preferred rates set at attributable costs for the remainder of the year. Consequently, the condition of a failure of appropriation was absent.

In addition, neither the continuing resolution appropriating the $517 million nor the accompanying committee reports provide any instructions regarding the level of preferred rates after the general rate increase. No mention was made of an intent to provide a subsidy sufficient only to support 80 percent of the preferred-rate mail contribution to overhead costs after the general rate increase.

In summary, neither of the two conditions necessary for increasing preferred rates beyond attributable cost levels were present. Accordingly, the only legal course of action available to the Postal Service was to implement the permanent attributable cost level rates.

QUESTION. By preferred mail category, would you please give us the rates which became effective on April 3 as compared to the rates currently in effect and the rate increases assumed when the $517 million estimate was made last year.

ANSWER. Please see the following chart which provides illustrative rate examples. It is important to note that the $517 million amount was predicated on the assumption that the preferred rates illustrated in column one would remain in effect for the first three quarters of the fiscal year and the rates illustrated in column three would then be placed in effect for the remainder of the year.

Comparison of Rates for Illustrative Examples of Preferred Rate Mail Category Pieces Under Old Rates, Current Rates, and USPS Proposed Rates

	Illustrative Examples 1/ 2/		
Class of Service	Old Rates 3/ (Cents)	Current Rates 4/ (Cents)	USPS Proposed Rates 3/ (Cents)
Second-Class Publications			
In County	5.4	5.6 3%	5.8 8%
Nonprofit	8.7	9.8 13%	10.3 19%
Classroom	13.1	14.5 10%	14.6 11%
Science of Agriculture	11.0	13.4 22%	12.6 15%
Third-Class Nonprofit			
Carrier Route Presort	5.5	5.3 -4%	5.2 -5%
Presort to Five Digits	7.1	7.6 7%	7.8 10%
Required Presort	8.5	8.4 -1%	8.7 2%
Fourth-Class Library Rate	73	87 19%	82 12%

1/ DESCRIPTION OF ILLUSTRATIVE PREFERRED RATE EXAMPLES

Second-Class Publication

In-County

Rural Newspaper:
Frequency: Weekly
Weight: 4 Ounces
Advertising: 50%
All Delivered in County
Presorted to Carrier Route

Nonprofit

Veterans' Magazine
Frequency: Monthly
Weight: 4 Ounces
Advertising: 20%
New York to Chicago
Presorted to 5 Digits

Classroom

Classroom Publications
Frequency: Weekly
Weight: 12 Ounces
Advertising: 15%
New York to Chicago
32 Copies per Piece

Science of Agriculture

Rural Agricultural Newspaper
Frequency: Weekly
Weight: 4 Ounces
Advertising: 50%
Within 150 Miles of Entry
Presorted to 5 Digits

Third Class

Nonprofit

Fund-Raising Letter
Weight: 3/4 Ounce
Nationwide Distribution
Carrier Route Presort
Presorted to 5 Digits
Required Presort

Fourth Class

Library Rate

Book between Libraries
Weight: 2 Pounds
New York to Chicago

2/ Percent changes from the Old Rates are shown under the rates.
3/ Rates are above attributable cost levels.
4/ New attributable cost level rates implemented on April 3, 1988.

QUESTION. The Postal Service's original Fiscal Year 1989 budget submission for the revenue forgone payment was $527,482,000. You have indicated that the current law appropriation for Fiscal Year 1989 would now be $436,417,000, after taking into account a Fiscal Year 1986 reconciliation adjustment of $52,997,000. I assume the difference between your original Fiscal Year 1989 estimate and this current law estimate can be attributed to the April 3 rate increases and the new "equal markup" accounting method. What amount of the reduction results from new rate increases and what amount results from "equal markup" accounting?

ANSWER. The original Postal Service estimate of revenue forgone for the 1989 Fiscal Year incorporated the use of the "equal markup" methodology. Consequently, the $91 million difference between the original and revised estimates is essentially due to two other factors. These factors are: 1) differences in the Commission recommendations and the Postal Service's proposal ($71 million) and 2) volume differences ($20 million).

The initial estimate of revenue forgone was based upon the rates and markups proposed by the Postal Service along with our cost information. The rates recommended by the Commission, along with the costs and markups used to develop those rates, are not identical to those proposed by the Postal Service. These differences account for approximately $71 million of the change from the original appropriation submission. The $71 million difference is caused primarily by changes made by the Postal Rate Commission in calculating the cost of delivering commercial third-class mail. These changes had very little effect on the actual rates proposed by the Postal Service, but reduced the markup for commercial third-class mail.

Under the "equal markup" provisions, the markup over attributable costs for the equivalent commercial mail category is applied to the costs of the preferred rate category to determine the appropriation. Therefore, applying the reduced commercial third-class markup, recommended by the Commission, to third-class nonprofit costs yielded a lower third-class nonprofit appropriation requirement than that originally anticipated by the Postal Service.

Volumes for the original proposal were projected over a year ago and were based on rates proposed in the recently conducted proceeding. Subsequently, the Postal Service incorporated data from the interim 12-month period, along with actual rates implemented on April 3, to develop updated volume projections. The change in volume accounts for the remaining $20 million appropriation reduction.

QUESTION. What would be the current law appropriation required for Fiscal Year 1989 if the increase in rates for preferred mail anticipated last year when the $517 million estimate was made had become effective on April 3 (i.e., to maintain level of subsidization in place since 1986 rate change)?

ANSWER. The preferred rates placed into effect in April 1986 were based on a subsidy sufficient to support only 79 percent of the preferred rate mail contribution to overhead costs (excluding free mail where the full subsidy continued). For Fiscal Year 1989, that level of subsidy translates into a net appropriation requirement of $351,774,000 which incorporates both a $404,771,000 basic requirement along with a reconciliation adjustment for Fiscal Year 1986 of -$52,997,000.

QUESTION. The President's budget for Fiscal Year 1989, requests only $19 million be appropriated to continue free mail for the blind and for overseas voting, assuming the President's request were adopted, what would happen to preferred-rate mailers' postal rates in Fiscal Year 1989 as compared to their current levels?

ANSWER. Assuming that the remainder of the Administration's legislative proposal regarding preferred rates were not enacted, then a failure of appropriation under section 3627 of the Postal Reorganization Act would exist. As described in the response to a previous question, the Postal Service can adjust preferred rates to recover the lost appropriation. Decisions to take such action rests with the Governors of the Postal Service. Based on the experience of past years, it is quite conceivable that the Governors would vote to adjust the rates paid by the mailers so that the increased revenue from these mailers would equal the amount the Postal Service would otherwise receive through appropriations.

The following chart provides illustrative examples of rates necessary to offset the full loss of appropriations for reduced rate mail.

PRELIMINARY
PREFERRED PRICE LEVELS
FY 1989 ILLUSTRATIVE EXAMPLES 1/

	Appropriation Amount		
Class of Service	$437 Million (Step 16)	Unsubsidized Rates (Approx)	Percent Change
Second-Class Publications			
In County	5.6	7.3	31%
Nonprofit	9.8	12.6	29%
Classroom	14.5	18.4	28%
Science of Agriculture	13.4	13.8	3%
Third-Class Nonprofit			
Carrier Route Presort	5.3	8.3	57%
Presort to Five Digits	7.6	10.6	39%
Required Presort	8.4	11.6	38%
Fourth-Class Library Rate	87.0	92.0	6%

1/ See next page for illustrative examples.

DESCRIPTION OF ILLUSTRATIVE PREFERRED RATE EXAMPLES

Second-Class Publication

In-County

Rural Newspaper:
Frequency: Weekly
Weight: 4 Ounces
Advertising: 50%
All Delivered in County
Presorted to Carrier Route

Nonprofit

Veterans' Magazine
Frequency: Monthly
Weight: 4 Ounces
Advertising: 20%
New York to Chicago
Presorted to 5 Digits

Classroom

Classroom Publications
Frequency: Weekly
Weight: 12 Ounces
Advertising: 15%
New York to Chicago
32 Copies per Piece

Science of Agriculture

Rural Agricultural Newspaper
Frequency: Weekly
Weight: 4 Ounces
Advertising: 50%
Within 150 Miles of Entry
Presorted to 5 Digits

Third Class

Nonprofit

Fund-Raising Letter
Weight: 3/4 Ounce
Nationwide Distribution
Carrier Route Presort
Presorted to 5 Digits
Required Presort

Fourth Class

Library Rate

Book between Libraries
Weight: 2 Pounds
New York to Chicago

QUESTION. If the President's proposal were adopted, how long would it take to effectively raise that rates charged to other mailers to pay the overhead costs of preferred mailers - except blind and overseas mail - now paid through the revenue forgone appropriation? What level of rate increases would be necessary?

ANSWER. A minimum of 16 months would be required to begin preparation for a rate proceeding, conduct the proceeding, and implement the resulting rates. Assuming the full proposal were adopted at the beginning of Fiscal Year 1989, the Postal Service would lose $437 million in revenues from preferred mail during Fiscal Year 1989 and perhaps half of that amount in Fiscal Year 1990. Those losses would occur until relief in the form of increased revenues from other sources would be available as a result of a rate proceeding. If the overhead burden of preferred rate mail were spread to all other classes of mail service, it would entail approximately a 1.5 percent rate increase over and above any other increase due to rising costs. If the overhead burden were passed to all other mail classes except First-Class, it would result in an increase of approximately four percent over and above increases due to rising costs.

QUESTION. Has the President's legislative proposal to repeal the authorization for appropriations to support reduced-rate mail been submitted to the Congress? Have you been given an opportunity to comment on it?

ANSWER. The Office of Management and Budget recently transmitted the proposal to both the Senate and the House of Representatives. The proposal is similar to those that have been transmitted to

Congress for the past several years with the minor exception of two new restrictions of the use of preferred rates. The Postal Service continues to defer to Congress regarding which groups, if any, should be offered or denied financial support in the form of lower postage rates. Our view is that such decisions are matters of public policy rather than issues pertaining to the operation of the nation's mail system.

However, we believe that several concerns should be considered in evaluating the Administration's proposal. For purposes of discussion, these concerns can be divided into the separate issues of funding of preferred rates and preferred rate eligibility.

The Administration proposal requires that lower rates for preferred mailers be funded through higher rates from other mailers. Several items are worth noting regarding that proposal.

1. The current policy has been successful in its aim to benefit certain mailers without harming other mailers.

2. The Postal Service is in an increasingly competitive environment. Rate increases, even of a small magnitude, which would result from the enactment of the proposal, affect our ability to compete.

3. Enactment of the proposal would not reduce the Federal deficit in Fiscal Year 1989. Since the Postal Service is "on-budget", the deficit reduction effect of a lower appropriation to the Postal Service would be offset by lower postal revenues. As described in the response to a previous question, compensating rate and revenue adjustments would not be in place until sometime in Fiscal Year 1990, at the earliest.

4. Another concern involves the control of access to reduced rates. Currently, the Congress is extremely diligent in examining proposals to provide preferred rates to various groups. The benefits to the groups and society are carefully weighed against the costs to taxpayers.

Costs of expanding preferred rate eligibility may not be so apparent if the Administration's proposal were enacted. Those costs, which are highlighted in the form of increased appropriations, might not be so readily apparent as part of the general postage burden imposed upon the public.

The Administration proposes to eliminate subsidized rates for: 1) commercial advertising in nonprofit mail, 2) political advocacy in nonprofit mail, 3) nonprofit educational mailings of organizations that are not schools, and 4) books mailed by publishers to libraries.

Proposals 1 and 4 were contained in last year's Administration revenue forgone proposal. Proposals 2 and 3 are new, however. Rather than discuss each proposal in detail, the following comments highlight some of our concerns.

The standards apparently envisioned for determining which advertising and political content is permissible in third-class nonprofit mail would be difficult to enforce. This is especially true in an environment where postal clerks would make almost instantaneous decisions, on a daily basis, regarding the advertising or political content of 11 billion pieces of third-class nonprofit mail at 30,000 post offices.

Redefining educational for purposes of nonprofit mailings would require that the Postal Service review 90,000 educational nonprofit permits to determine if the permit holders conform to the revised definition. While that review is possible, it would be a formidable undertaking. Moreover, the full appropriation savings contemplated from any revised definition could not occur until all 90,000 permits were reevaluated.

This discussion is not intended to suggest that any additional preferred rates restrictions are impractical or unwarranted. However, we believe that it is important to address potential administrative concerns in the evaluation of proposed changes. We will be glad to provide additional comments (including more details on the nonprofit advertising and political advocacy issues) regarding these or any new suggested changes in preferred rate eligibility.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

QUESTION. *I am seriously concerned that the United States Postal Service continue to maintain small rural post offices and six-day postal delivery service. In the past, the Postmaster General has indicated to the Senate appropriations committee his willingness to participate in economies--but pledged not to close small rural post offices or eliminate six-day mail delivery service in the process.*

Because these postal service matters are so important to rural states, I have again this year urged that the Subcommittee include an amendment in the bill which would prohibit the use of appropriated funds to close small post offices or discontinue six-day mail delivery service.

Mr. Frank, as the new Postmaster General, what are your views on maintaining the extensive delivery network that makes the Postal Service unique, and do they differ from those of your predecessor?

ANSWER. Small post offices and six-day delivery play important roles in our operations. While we do not engage in wholesale closings of small post offices, we do discontinue a small number each year as operational needs dictate. Maintaining six-day delivery aids our handling of steadily increasing volumes and additional deliveries. For these reasons, I have no intention of changing my predecessors' policy on the closing of small post offices or on the continuation of six-day delivery service.

QUESTION. *What are your views on the Grace Commission regarding the closing of thousands of small post offices?*

ANSWER. The expenses related to the operation of a given post office and the revenues of that office are not accurate measures of the value of the office to the Postal Service's universal delivery system. For this reason, the savings cited in the Grace Commission report are misleading. On this and other grounds, I disagree with the Commission's recommendations on the wholesale closing of small post offices.

QUESTION. *Mr. Frank, I understand that the Postal Service, based on clarifying remarks in the Congressional Record, has instituted certain safeguards and procedures in these instances where the Postal Service believes that a post office must be closed.*

Would you elaborate for the record on the safeguards the Postal Service uses in these selected cases?

ANSWER. Our policy, which precludes wholesale closings of small post offices, is based on the law. The administrative safeguards reflect the law and are followed whenever we propose to close a post office.

Our regulations require 60 days for public comment following the development and release of a written proposal to close or consolidate an office by a Field Division General Manager/Postmaster. If a discontinuance is approved following a careful review of the proposal at the Headquarters level, the statute provides for a 30-day posting of a final determination during which local postal customers may appeal the final decision to the Postal Rate Commission. The Postal Rate Commission then has 120 days to review the matter and render a final opinion.

QUESTION. What is the status of proposed Postal Service construction projects in West Virginia, such as the proposed Clarksburg and Charleston postal facilities?

ANSWER. The Clarksburg project, which was approved by the Postal Service Board of Governors in August 1987, calls for construction of a 132,000-square foot General Mail Facility and an 11,000-square foot Vehicle Maintenance Facility. A site has been purchased, and design and preliminary site work has been completed. Because of the limited capital funds available for Fiscal Year 1989, the possibility of construction award in Fiscal Year 1989 is uncertain. Construction could be deferred in favor of other higher priority projects.

Plans for the Charleston facility call for site purchase and design completion in Fiscal Year 1989. However, full project approval has not been granted and the precise alternatives for this project have not been finalized. We are presently analyzing expansion of the current facility or construction of a new facility. We have purchased property across the street from the present Main Post Office in the event that expansion goes forward.

Regardless of which alternative is selected, it is uncertain to what extent construction for Charleston will be affected, since construction award is not scheduled until the last quarter of Fiscal Year 1989. Deferral of construction award until Fiscal Year 1990 impacts the project schedule by only a few months. An estimated 179,000 square feet of space would be constructed.

QUESTION. Please provide for the record a list of proposed facilities to be constructed in West Virginia in the forseeable future; a short description of each proposed construction project (including need, dimensions, and the additional number of employees, if appropriate); and a schedule, including significant milestone events, leading to the planning, design, construction, and occupancy of each project.

ANSWER. The information requested is outlined below:

PRELIMINARY **

The following two pages list the status of all planned and ongoing new postal facilities in West Virginia over the next serveral years, as well as other information requested.

NEW CONSTRUCTION OWNED (FY88 THRU FY93)

02 MAY 1988

POST OFFICE	UNIT	START	PROJECT APPROVAL	ACQUIS	SITE COMPLTE	DESIGN COMPLTE	CONSTR INT. SQFT	NEED	ADDL EMPLYS
ANMOORE	MAIN OFFICE	870223	870220	870908	880501E	890818E	928	1&2	NONE
CHARLESTON	KANAWHA CITY STA	891015E	891114E	900413E	900513E	901129E	8,000	1	NONE
CHARLESTON	MAIL PROCESSING ANNEX	861017	880909E	881125E	890910e	910918E	179,000	1	14
CHARLESTON	SOUTH CHARLESTON BR	870106	881216E	891230E	900610E	911010E	13,000	1	NONE
CLARKSBURG	GMF & VMF	861017	870804	871202	871220	910215E	142,845	1	5
COWEN	MAIN OFFICE	860124	880315	890301E	910430E	921010E	2,960	1	NONE
HUNTINGTON	EAST SIDE STA	900101E	900131E	900630E	900730E	910215E	8,000	1&3	NONE
KEARNEYSVILLE*	MAIN OFFICE	860429	860403	870624	870514	880315	4,013	1	NONE
MEADOW BRIDGE	MAIN OFFICE	870821	870813	880310	880901E	890817E	1,682	1&2	NONE
NEW CUMBERLAND	MAIN OFFICE	891007E	891106E	900405E	910105E	910724E	2,960	1&2	NONE
NORMANTOWN*	MAIN OFFICE	860512	860509	871008	870810	880611E	928	1&2	NONE
ROSEMONT	MAIN OFFICE	870224	870212	871006	880622E	900201E	1,056	1&2	NONE
WINFIELD	MAIN OFFICE	860804	881001E	890330E	890531E	900401E	4,144	1&2	NONE
WORTH	MAIN OFFICE	860825	871119	881201E	880729E	900413E	928	1&2	NONE

LEGEND:

E = ESTIMATED DATE

** ALL PROJECT COMPLETION DATES CONTINGENT ON AVAILABILITY OF CAPITAL FUNDS

NOTE: UNDER "NEED" CATEGORY

1 = MORE SPACE NEEDED
2 = IMPROVED WORKING CONDITIONS
3 = CONSOLIDATION
4 = LEASE TERMINATED

* = PROJECT UNDER CONSTRUCTION

NEW CONSTRUCTION LEASED (FY88 THRU FY93)

POST OFFICE	UNIT	PROJECT START	PROJECT COMPLTE	INT. SQFT	NEED	ADDL EMPLYS
ALUM CREEK	MAIN OFFICE	870930	890924E	2,322	1&2	None
ARBOVALE	MAIN OFFICE	890415E	910715E	928	2	None
BARTLEY	MAIN OFFICE	890415E	910715E	616	1&2	None
BECKWITH	MAIN OFFICE	870521	890930E	616	2	None
BOWDEN	MAIN OFFICE	880630E	900815E	928	2	None
BUCKEYE	MAIN OFFICE	881106	891231E	928	2	None
BUNKER HILL	MAIN OFFICE	860512	890701E	2,002	1	None
CHATTAROY*	MAIN OFFICE	841024	881008E	1,168	2	None
DANVILLE	MAIN OFFICE	880113	900107E	3,610	1	None
DURBIN	MAIN OFFICE	851021	890915E	928	1&2	None
ELBERT	MAIN OFFICE	870421	890805E	516	1&2	None
ELEANOR	MAIN OFFICE	870206	890915E	2,322	1	None
FANROCK	MAIN OFFICE	870313	891129E	928	1	None
GLEN FERRIS	MAIN OFFICE	870810	890830E	616	1&2	None
GREENWOOD	MAIN OFFICE	861205	891005E	928	4	None
HACKER VALLEY	MAIN OFFICE	880530E	890530E	928	2	None
HAVACO	MAIN OFFICE	870407	900204E	928	1&2	None
HEMPHILL	MAIN OFFICE	880106	891231E	928	1&2	None
JOLO	MAIN OFFICE	841128	891028E	928	2	None
LANARK	MAIN OFFICE	870224	890704E	928	1&2	None
LEEWOOD	MAIN OFFICE	880815	900815E	616	2	None
LOOKOUT*	MAIN OFFICE	860305	880701E	928	1&2	None
LORADO	MAIN OFFICE	870213	890829E	928	2	None
MABIE*	MAIN OFFICE	870402	881228E	928	1&2	None
MAXWELTON	MAIN OFFICE	870415	890901E	928	1&2	None
MC COMAS	MAIN OFFICE	841025	891205E	928	1	None
MORGANTOWN	STAR CITY BRANCH	880730E	900730E	3,000	4	None
NEWELL	MAIN OFFICE	820510	891227E	2,002	2	None
NIMITZ	MAIN OFFICE	870310	890716E	928	1	None
ONA	MAIN OFFICE	851203	890730E	1,680	1	None
PAGETON	MAIN OFFICE	870302	900103E	928	1	None
PANTHER	MAIN OFFICE	870226	900202E	928	1	None
PIEDMONT*	MAIN OFFICE	870622	880901E	1,682	1&2	None
PLINY	MAIN OFFICE	900615E	920830E	928	1&2	None
PREMIER	MAIN OFFICE	870224	900408E	928	1	None
PRINCE	MAIN OFFICE	870310	890730E	616	2	None
PROCIOUS*	MAIN OFFICE	870401	890106E	1,168	1&2	None
PURGITSVILLE	MAIN OFFICE	841022	890314E	616	2&4	None
RALEIGH	MAIN OFFICE	870810	900228E	928	1&2	None
RANGER	MAIN OFFICE	880106	900331E	1,168	1&2	None
ROCK	MAIN OFFICE	870126	900203E	1,168	1&2	None
SANDYVILLE*	MAIN OFFICE	870626	880901E	1,168	1&2	None
SARAH ANN	MAIN OFFICE	870416	890830E	928	1&2	None
SHANKS	MAIN OFFICE	880630E	900630E	616	1&2	None
SIMON	MAIN OFFICE	870521	890531E	928	1&2	None
SPRINGDALE*	MAIN OFFICE	860819	881112E	928	1&2	None
STEPHENSON	MAIN OFFICE	870325	891230E	928	1	None
STIRRAT	MAIN OFFICE	890415E	910830E	616	2	None
SUTTON	MAIN OFFICE	880615E	900630E	3,000	1	None
SWEET SPRINGS	MAIN OFFICE	870302	891230E	928	2	None
TALCOTT	MAIN OFFICE	870721	890730E	928	2	None
WASHINGTON*	MAIN OFFICE	840227	880801E	2,160	1	None
WHITESVILLE	MAIN OFFICE	900615E	920730E	1,682	2	None

LEGEND:

E = ESTIMATED DATE

NOTE: UNDER "NEED" CATEGORY

1 = MORE SPACE NEEDED
2 = IMPROVED WORKING CONDITIONS
3 = CONSOLIDATION
4 = LEASE TERMINATION

* = PROJECT UNDER CONSTRUCTION

QUESTION. Please provide for the record, a list of the principal postal facilities in West Virginia, their location, and number of employees at each site. Please also provide the total number of persons employed in West Virginia by the Postal Service. Could you provide this information for the past several years?

ANSWER. The information requested is depicted below:

This is a listing of the principal mail processing facilities in West Virginia, along with other pertinent information requested concerning those facilities. Also, the total number of postal employees in the state over the last four years is noted at the bottom of the page.

MAIL PROCESSING FACILITIES IN WEST VIRGINIA

02 MAY 1988

POST OFFICE	UNIT	STREET ADDRESS	ST	ZIP	INT. SQFT	# EMPLOYEES (1986)	# EMPLOYEES (1988)
BECKLEY	MAIN OFFICE	228 NORTH KANAWHA ST	WV	25801	20,105	112	107
BLUEFIELD	MAIN OFFICE	301 NORTH STREET	WV	24701	19,307	121	124
BUCKHANNON	MAIN OFFICE	20-24 SOUTH SPRING ST	WV	26201	8,352	42	41
CHARLESTON	MAIN OFFICE	1014 LEE STREET EAST	WV	25301	137,285	717	798
CLARKSBURG	MAIN OFFICE	500 WEST PIKE ST	WV	26301	77,244	239	240
GASSAWAY	MAIN OFFICE	ELK STR AT 4TH	WV	26624	5,074	11	11
HUNTINGTON	GMF	1000 VIRGINIA AVE.,W	WV	25704	81,621	271	275
LEWISBURG	MAIN OFFICE	204 E WASHINGTON ST	WV	24901	8,937	27	29
MARTINSBURG	MAIN OFFICE	217 W. KING STREET	WV	25401	18,770	78	79
PARKERSBURG	MAIN OFFICE	401 JULIANA STREET	WV	26105	31,395	177	184
PETERSBURG	MAIN OFFICE	3 VEACH STREET	WV	26847	5,814	13	15
WHEELING	MAIN OFFICE AND VMF	2501 CHAPLINE ST	WV	26003	51,996	191	194

NOTE: TOTAL POSTAL EMPLOYEES IN WEST VIRGINIA

1985	1986	1987	1988
4,981	5,108	5,224	5,215

NONDEPARTMENTAL WITNESS

STATEMENT OF ROBERT M. TOBIAS, PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

Senator DECONCINI. Our next and last witness is Mr. Robert Tobias, president of the National Treasury Employees Union.

Mr. Tobias, it is good to have you here. Welcome.

I know that you have a long, comprehensive statement. We have had a chance to look at some of it. I assure you that it will be included in the record in full, if you would summarize that for us. I do have a few questions.

Mr. TOBIAS. Thank you very much, Mr. Chairman. It is a pleasure to be here. I would like to talk about both the IRS and the Customs budgets particularly.

First the IRS, we believe that the IRS budget is OK as far as it goes, but we believe that there are big gaps in it. As you pointed out earlier today, the Internal Revenue Service originally requested some 13,000 positions and $870 million more than was approved by Treasury or OMB.

Certainly, the IRS thought that it could use those positions very well, they could use them in taxpayer service; also to change the percentage of people who are temporary to more permanent positions, to give some stability to the work force; some more positions in collection, to decrease the tax delinquent accounts which have now increased 60 percent in the past 4 years, to $55 billion; and also to the $3.7 billion that are currently owed in withheld FICA taxes that are unpaid.

Senator DECONCINI. How much?

Mr. TOBIAS. $3.7 billion and $55 billion in tax delinquent accounts.

Also in the examination area, we believe that the percentage of audits should increase, and what the proposal this year does is make a minuscule increase. We urge Congress to set a goal and to hire people to carry it out.

Secretary Baker said that but for the budget summit that they would have gone forward with the tax initiative. But we certainly agree with your position that when more people would yield the amount of dollars that Mr. Gibbs pointed out, we are talking about enhancing the revenues.

Senator DECONCINI. Let me interrupt you just a minute on that because I have a question along that line.

Do you think the IRS could absorb 12,000 or 13,000 new people in collections and examination if they were put in new for 1989?

Mr. TOBIAS. Yes; I believe they can.

Senator DECONCINI. Could they find that many?

Mr. TOBIAS. It will be difficult to find that many.

Senator DECONCINI. You think it would be hard to find them?

Mr. TOBIAS. I think it would.

For example, Secretary Baker said that there is no problem attracting good people, and he pointed to the special salary rates that he had put into effect in New York. I just think that that is a very minuscule approach to solving the real problem.

Fifty-five percent of the temporary employees working in 1984 had prior years experience, and that is down to 34 percent today. The turnover, which we make part of the testimony, has been increasing dramatically, particularly in the more experienced revenue agents and revenue officers, where some 70 percent of those who quit are those with experience.

Senator DECONCINI. Do you know the average amount of time they stay before they quit?

Mr. TOBIAS. A GS-9 would mean 2 years, so it is after 2 years. The big crunch of people quit between year 2 and year 5. They come in, the IRS spends hundreds of thousands of dollars training them, and then they go out into the work force making considerably more money. What we have is the taxpayer subsidizing the training for the private sector.

A recent IRS study showed that at the 50th percentile, the level above which 50 percent of the revenue agents are hired, those with equivalent skills, was $16,800. The 90th percentile, above which 90 percent were hired, was $15,000.

Senator MIKULSKI. With an accounting degree?

Mr. TOBIAS. That is correct.

The IRS at the time was paying $12,200.

Senator DECONCINI. When was this, last year?

Mr. TOBIAS. It was 1983 when this was done.

We believe that the way Congress should analyze what kind of resources the Internal Revenue should receive is by looking at two things. One is the tax compliance gap—is it increasing or decreasing, and by how much? And the revenue needs. Using those two criteria, we believe that there is ample support for Senate bill 2205 plus what the administration has already proposed, that the IRS can absorb the people, they can find the people and put them on the rolls.

We also have suggested that the IRS be allocated $50 million to pay people more money in terms of attracting them and retaining them because, as I said, one chunk of people are those who come on and are trained between year 2 and year 5, and the other group are those who have been around for 10, 12, 15 years, and then leave, and they leave a huge hole when they leave.

Senator DECONCINI. Would that require legislation, or just money?

Mr. TOBIAS. Money.

Senator DECONCINI. One of your suggestions for keeping qualified IRS people is just to get the salaries up.

Mr. TOBIAS. Attracting in the first instance, and then retaining. It is both, Senator.

Senator DECONCINI. What percentage increase of salary have you thought about that in your judgment would meet this suggestion of yours?

Mr. TOBIAS. I think, Mr. Chairman, it would be different in different locations.

Senator DECONCINI. It would have to be global in the sense that they all should go up, but specific in the sense of how in certain areas based on the cost of living, and what-have-you.

Mr. TOBIAS. It is much more difficult to attract people in Phoenix, AZ, then it is in other places, or in Los Angeles.

Senator DECONCINI. Were you here when the Secretary testified?

Mr. TOBIAS. Yes; I was.

Senator DECONCINI. Do you have any comments on his suggestions?

Mr. TOBIAS. I think those are fine.

Senator DECONCINI. We just need more of them.

Mr. TOBIAS. It is one thing to provide child care, but if you can't afford to pay for the child care, then it is useless to you.

We certainly support the child care, and we have 15 child care centers that are going to be coming on line this year in the Internal Revenue Service. It is the only agency that is doing anything in this arena. We are very pleased to be part of that, but it doesn't solve the total problem.

In the Customs Service, this is another area, as you pointed out earlier on, where the administration, for the first time, has not proposed to cut, but we believe that Customs has not really done what it needs to do in the cargo area, in processing the stuff that comes into our country.

There has been, over the years, a significant reduction in the number of import specialists that do classification and value. We believe that a modest increase in the number of entries that are reviewed will yield $700 million additional dollars.

Currently 70 percent of all entries are not examined. Eight years ago, that number was 80 percent were reviewed, and now the numbers have almost been stood on their head, reversed. So we believe that another 1,000 positions, a balance between inspectors and import specialists, would yield revenue.

It would also provide something that you were talking about, which both of you talked about with the Postal Service, and that is service, because importers and brokers need to know in advance how a good will be valued.

The only way they can get that information for a certainty is by calling the U.S. Customs Service, an import specialist, and say: What is the proper classification? What is the proper value? They can't respond now because there are so few of them.

The number of entries has increased from 4 million to 8 million over the last 4 or 5 years, and yet the number of people processing entries has only increased 6 percent.

Senator DeConcini. On that subject matter, do you have any model or studies that demonstrate that if you invest $1, or $10 million, into commercial inspectors, you get back fivefold or threefold?

Mr. Tobias. What we base that $700 million on is the fact that right now every entry that is reviewed, on the average, yields $2,000.

Senator DeConcini. So it is based on the volume of entries.

Mr. Tobias. Yes.

Senator DeConcini. If you can handle more entries, you have more revenue.

Mr. Tobias. We say, OK, if you are going to audit more of them, there might be a marginal reduction, so the $700 million is based on $1,200 as opposed to $2,000, and 600,000 more entries examined, so you have a bypass rate of 60 percent instead of 70 percent.

Senator DeConcini. I see.

Mr. Tobias. With that simple, mathematical formula, you get $700 million, and there is no one who disputes that. OMB doesn't dispute it.

Senator DeConcini. Are you saying, if you put 1,000 new positions, you get $700 million?

Mr. Tobias. That is correct.

Senator DeConcini. Does OMB agree with that?

Mr. Tobias. Yes; no one disputes those numbers.

Senator DeConcini. We put in 1,200 last year. We tried to put in 1,700, and we ended up with between 1,100 and 1,200. Are we going to see $700 million as a result of that?

Mr. Tobias. No; and the reason you are not is because of how they allocated the positions. Most of the positions last year went for drug interdiction and not for commercial.

Senator DeConcini. Most of it was commercial.

Mr. Tobias. The way it was actually allocated was 16 percent of the positions went to commercial operations. That is the way it finally shook out.

Senator DeConcini. That is really the way it shook out?

Mr. Tobias. That is the way it shook out.

Senator DeConcini. Are you sure about that?

Mr. Tobias. Mr. Mills looks like he is pretty sure I am not.

Senator DeConcini. You may have some information that we don't have. It is your guys who are on the line there. Maybe they are deputizing them as imports examiners and putting them in the drugs area.

Mr. Tobias. The full testimony has the way we have computed that.

Senator DeConcini. I will take a look at that because I would like to resolve that. We told them what to do, but it sounds like maybe they didn't do it from what you are saying.

Mr. Tobias. I think there were 3,040 new positions, and 509 inspectors and 157 imports specialists that were added.

Senator DECONCINI. That is all in your statement?

Mr. TOBIAS. It is all in the statement.

Senator DECONCINI. We will review that with them.

Mr. TOBIAS. We certainly could be wrong.

Senator DECONCINI. Your testimony is that if you put 1,000 new import examiners, you would derive $700 million in the 12-month period that those people were at work.

Mr. TOBIAS. That is correct. Once you had them, once you had them trained, it would be $700 million.

Senator DECONCINI. OMB would score that as along those lines?

Mr. TOBIAS. Whether they would score it or not, they agree with the numbers.

Senator DECONCINI. They agree with that mathematical formula.

Mr. TOBIAS. That is correct.

We urge that what the Customs be allocated is what the administration proposes and what you have suggested in the drug interdiction area plus commercial operations.

Senator DECONCINI. You are suggesting another real source of revenue, nontax revenue.

Mr. TOBIAS. Absolutely.

The traditional dollar formula has been 17 to 1. For every $1 spent, it is $17 in revenue. Over the years, there has not been any dispute about those numbers.

PREPARED STATEMENT

I would be pleased to answer any specific questions you might have.

[The statement follows:]

STATEMENT OF ROBERT M. TOBIAS

I am Robert M. Tobias, National President of the National Treasury Employees Union. NTEU is the exclusive representative of over 120,000 Federal workers, including virtually all employees of the Internal Revenue Service. I am accompanied today by Patrick Smith, NTEU Director of Legislation, and Paul Suplizio, legislative consultant.

On behalf of the men and women who collect the revenue of the Federal government, I am pleased to appear before you to present our recommendations on Internal Revenue Service appropriations for FY 1989.

Administration's Proposed Budget

The Administration's budget request for IRS calls for an increase of 1,650 average positions and $240 million in FY 1989, thus continuing the improvements begun three years ago to stem the fall in voluntary compliance (Table 1). Our tax administration system has been steadily strengthened since 1983, with positions in Returns Processing, Examination, Appeals, Collection, and Taxpayer Service all rising significantly (Tables 2 and 3). IRS is now implementing a major overhaul of our tax laws that will affect every citizen, so we are fortunate to have the resources that have been added in recent years.

During the past two years, 4,300 positions were added to Examination as part of a successful revenue initiative that raised audit coverage and brought in $1.2 billion. While we regret the Administration's decision not to go forward with the planned addition of 2,500 more positions this year, we believe the budget request is responsive to most of the priority needs of the Service and should be viewed as a minimum requirement. It should also be noted that this budget is $700 million and 8,900 average positions less than what IRS requested from OMB. Under this budget, most IRS performance indicators will either rise moderately or hold steady (Table 4).

Voluntary Compliance Tax Gap

Whether or not any IRS budget can be considered adequate depends on two factors: the state of voluntary compliance and the government's revenue needs. IRS has provided fresh evidence on the state of voluntary compliance in its recent study of the tax gap, which it estimates at $87 billion this year and projects to be $113.7 billion in 1992. According to GAO's review of this study, an important assumption made by IRS in projecting the tax gap to future years was that the compliance rates for various types of income remain constant instead of continuing to decline. IRS based this assumption on the effects of congressional actions which have lowered marginal rates, curbed tax shelters, and provided new tools to strengthen compliance.

Certainly there is something to be said for this logic. But is it realistic to assume that today, after two decades of decline, voluntary compliance has stopped falling? Tax Reform is just beginning to take hold, and we have little evidence of its effects on taxpayers. Nevertheless, IRS shows the compliance rate rising from 81.1 percent in 1986 to 84.2 percent in 1992. We hope this optimism will be borne out, but more likely it will prove premature. We believe several more years of strengthening enforcement and taxpayer services are required before we will see a turnaround in compliance.

We now have a hidden tax gap of $55 billion in delinquent accounts receivable that is not even included in the measured tax gap, but has grown 60 percent in the past three years and is seriously eroding the flow of revenues to the Federal government. This is a serious problem that Congress needs to address as soon as possible in line with the recommendations we are making today.

In its study of the underground economy in 1984, the Commerce Department's Bureau of Economic Analysis showed that unreported income was growing at 14 percent a year, significantly faster than the general economy. In IRS' current study, the tax gap grows at 7 percent a year, in line with the projected growth of GNP. IRS is telling us not only that compliance has stopped falling, but also that the underground economy -- unreported transactions that account for most of the tax gap -- has stopped growing relative to GNP. This would imply that we are getting the tax gap under control. We believe there is little evidence to support such a conclusion at this time.

Federal Revenue Needs Dictate Strengthening IRS

Responding to the extraordinary drug problem that now confronts the nation, legislation has been introduced in both the Senate and House embodying a comprehensive anti-drug abuse program that addresses both the supply and demand sides of narcotics control. These bills authorize an additional $2.4, billion over and above the President's program, for interdiction, eradication, education, treatment, and criminal justice in FY 1989. The revenue required to fund such a program, to reduce the Federal deficit, or for any other worthwhile purpose, could be obtained by further strengthening our tax system.

In order to raise the funds needed to seriously attack the drug problem, the Senate bill authorizes 6,842 additional IRS positions in Examination, Collection, Returns Processing, and Taxpayer Service. IRS has testified that these positions would cost $286 million and yield additional revenue of $1.12 billion in FY 1989 and $2.22 billion in FY 1990.

The 66 senators who are sponsoring this legislation evidently agree that present IRS compliance activities have a high yield-to-cost ratio, so that relatively small increments of resources will yield large revenues. At current levels, so few returns are being examined, delinquent accounts are being worked, and underreporter notices are being sent, that significant revenues legally owed the Federal government are not being obtained.

NTEU supports this legislation not only because of the urgent national need it embodies, but because our tax system still has serious problems and requires further strengthening. A glance at Table 4 shows serious inadequacies in IRS performance. Audit coverage stands at 1.2 percent, whereas 2 percent or more should be the norm to deter non-compliance and put an end to the audit lottery. The accounts receivable inventory remains at an all-time high, while revenue in delinquent accounts has reached an astronomical $55 billion.

A newly-emerging component of our compliance problem is $3.7 billion in delinquent payroll taxes, up 49 percent since 1982. Compliance with international tax rules is another area of noncompliance. An IRS survey of 12,000 foreign-owned companies found they were paying an average tax of about 1 percent on their U.S. operations; a substantial number of those companies are paying no U.S. tax at all. Overseas tax havens need to be brought into compliance. So do U.S. corporations who are underreporting interest and dividend income, costing the Treasury an estimated $8 billion a year.

In Taxpayer Service, IRS should assist more, not fewer, taxpayers to promote compliance with the new Tax Reform Act, and should do so with higher standards of accuracy and timeliness. These examples demonstrate that the struggle to put our tax system on a sound footing is far from over.

Establish a Ninety Percent Compliance Objective

NTEU has long urged that Congress establish a 90 percent voluntary compliance level as a national objective. This objective would set the standard against which steps to strengthen the tax administration system would be measured. Voluntary compliance plummeted from 90 percent in the late sixties to near 80 percent today, a situation resulting from two decades of economic change. It is imperative that the measures Congress has only begun taking to restore the situation continue until the 90 percent goal is achieved.

In its Five Year Resource Plan, FY 1988-FY1992, IRS spelled out how it would allocate 9,457 average positions over five years to raise voluntary compliance. Additional resources would go to improve taxpayer service, provide taxpayers more tax account and returns processing information, increase tax fraud investigations, strengthen international tax administration, investigate overseas tax havens, match business information documents, and increase Examination and Collection by 8,600 average positions. This program would increase audit coverage to 2 percent and generate additional revenue of $6.3 billion.

In this plan, IRS provides a blueprint for moving toward 90 percent voluntary compliance while generating significant revenue for deficit reduction and other national purposes. NTEU's recommendation of 6,800 additional positions for IRS in FY 1989 is in line with the concepts of this plan. IRS has stated that it can absorb up to 12,000 new positions a year, so the proposed expansion is feasible.

NTEU Recommended Appropriation for FY 1989

The President's budget request for FY 1989 and NTEU's recommendation are shown in Table 5. We recommend an additional $4.6 million and 186 average positions for the document matching program in Returns Processing, generating additional revenue from more non-filer and underreporter notices.

NTEU recommends an additional $159 million and 3,800 average positions for Examination and Appeals. This recommendation essentially restores the 7,500 position revenue initiative originally put forward by the Administration. To date, 4,300 average positions have been allocated, so an additional 3,800 positions will complete the program and provide 600 more Appeals Officers to deal with backlog of cases in Appeals.

NTEU recommends an additional $123 million and 2,800 average positions for Investigation, Collection, and Taxpayer Service. The yield-cost ratio in Collection is one of the highest in IRS, 17 to 1, and our recommendation is prompted by the rapidly growing backlog of accounts receivable and increasing amount of revenue in these accounts. A 2,000-position revenue initiative for Collection is an urgent requirement to reduce this backlog and speed up the flow of monies to the Treasury. In addition, 800 positions would be allocated to Taxpayer

Service to improve both accuracy and timeliness of telephone assistance, and to assist more taxpayers.

In sum, NTEU recommends $5,586,338,000 and 120,653 average positions for IRS in FY 1989. This is $286,613,000 and 6,842 average positions above the President's budget request.

Examination

The Examination Division is the backbone of IRS' efforts to achieve a high degree of voluntary compliance with the tax laws. Between 1976 and 1987, noncompliance grew while audit coverage fell from 2.6 to 1.1 percent. There is little doubt that IRS is now conducting far too few face-to-face audits. There are many issues, particularly those associated with underreported income and questionable deductions, that can be resolved only by meeting with the taxpayer. The taxpayer will frequently discuss the audit with his friends and associates, and he may take greater care in his future filings.

Looked at by type of return, present audit coverage of 1.2 percent in FY 1988 reveals many inadequacies, such as 1.3 percent coverage for individuals, 1.1 percent for small corporations (under $500,000 total assets), .81 percent for partnerships, and only .12 percent for employment tax returns. Yet each of these groups account for a significant part of the tax gap.

IRS recently identified employment taxes as a major compliance problem. The Assistant Commissioner for Collection said last month, "The IRS is currently faced with $3.7 billion in delinquent payroll taxes owed by over 338,000 businesses nationwide. These are not income taxes ... these are the dollars employers have withheld from their employees' wages and have either neglected or refused to properly deposit ... use of withheld taxes by cash-short employers is up by 49 percent since 1982." We can expect other compliance challenges of this sort -- overseas tax havens, phony dependency claims and unreported corporate income are examples -- to continue to emerge, and Examination must be prepared to deal with them.

In a survey conducted for IRS in 1984, the public opinion research firm of Yankelovich, Skelly, and White examined taxpayer attitudes toward compliance through 20 focus groups and nationwide in-home interviews with 2,200 persons. The study concluded that taxpayers could be classified into five groups:

1. Strong Complier--22 percent of the filers. Ideologically opposed to all forms and rationales for tax cheating.

2. Silent Majority--23 percent of filers. Follows a middle-of-the-road approach, not strongly opposed to or against compliance but basically do what they think is right.

3. Rationalizers--18 percent of filers. Not actively seeking ways to noncomply but strongly support rationales for not complying.

4. Scramblers--21 percent of filers. Do not think there is a reason to rationalize, and support all the ways one can "beat the system."

5. Strategic Noncompliers--16 percent of filers. Ideologically and philosophically committed to noncompliance.

The results show pretty clearly that there is certainly not a strong bias toward compliance on the part of taxpayers generally, without significant enforcement measures. Interestingly enough, a Wall Street Journal/NBC News poll taken last year found that the public favors tougher tax law enforcement by 72 percent to 24 percent.

Nothing would be more conducive to raising compliance than to increase audit coverage to above two percent. Congress and the Administration have embarked on this course, but must demonstrate a continued willingness to provide the necessary resources. IRS must be able to attract and retain the high-calibre people needed in Examination. Being able to compete for the best accounting graduates, and providing incentives to make the Service an attractive career, are fundamental to ensuring an effective Service. A steady budget course, systematically raising audit coverage each year, will enable IRS to plan better and recruit more efficiently.

IRS has recently issued personal computers to Revenue Agents under the Automated Examination System, and this is a major step forward. However, training on the new computers is barely adequate and provision for additional instruction needs to be made. IRS projects that $58 million in additional revenue will be collected from AES in FY 1988 due to increase Revenue Agent productivity. This revenue will not accrue, in ~~our~~ judgement, unless training is increased. Similarly, $13 billion in additional revenue is projected over the 10-year lifetime of AES, which will cost $1.3 billion over the same period. The cost of better training to make this sizeable investment pay off would be modest and well worth the funds expended. NTEU continues to urge an increased dedication to training in the Service.

Collection

Total accounts receivable grew from $34.4 billion in December 1984 to $55 billion last year -- an increase of 60 percent. IRS has had a serious problem stemming, and even explaining, the rapid rise in this hidden tax gap which is seriously eroding the flow of revenues to the Federal government. To get control of this critical situation, it is imperative that NTEU's recommendation for a minimum of 2,000 additional positions for Collection be adopted.

Revenue Officer caseloads have reached unmanageable levels and have been a matter of continuing concern on NTEU's part -- a concern expressed to management on numerous occasions. NTEU's recommendation for 2,000 additional Revenue Officers would help bring caseloads to a more manageable level and reduce the backlog of taxpayer delinquent accounts.

NTEU remains firmly of the opinion that Revenue Officers should be permitted to exercise sound judgement in entering into settlements that are fair to the taxpayer and fair to the government. Collection Division's management philosophy is often counterproductive, resulting in pressure to achieve the maximum number of case closures, and leaving Revenue Officers insufficient time to work cases properly.

The Subcommittee should take steps to increase the protection of IRS employees -- particularly Revenue Officers -- from assaults, threats and harassment by taxpayers. Assault and threat incidents rose from approximately 400 in 1981 to 988 in 1985, an increase of 147 percent. OF the reported incidents, an average of 50 percent each year are physical assaults.

After examining over 3,000 incidents in the files, a consulting firm retained by IRS, Research Management Associates, concluded that "the potential for injury and harm exists on a daily basis for many IRS employees." Of the IRS personnel involved in incidents, 68 percent were Revenue Officers. More than 77 percent of the assaults, and 79 percent of threats with deadly weapons, were committed against Revenue Officers.

Approximately 40 percent of assaults occurred at taxpayers' residences, 30 percent at taxpayers' place of business, and 17 percent inside IRS offices. Approximately 47 percent of threats were made over the telephone, 32 percent were made at taxpayers' residences, and 19 percent were made in IRS offices.

The most dangerous assignments are related to seizure of property. Twenty-six percent of all incidents occurred when Revenue Officers were involved in this type of enforcement action. Making demand for full payment resulted in the second highest number of incidents, followed by filing of liens and serving of levies.

More than 34 percent of employees involved in incidents had been threatened three or more times during their IRS careers. Twenty-five percent of employees stated they had made changes in their work behavior or personal lives as a result of threat and assault incidents, such as securing unlisted telephone numbers, becoming more cautious, limiting public access to their names and information about their families, and moving.

More than 53 percent of Revenue Officers surveyed said they were at least occasionally afraid for their personal safety on the job, compared to 22 percent for other employees. Only 38 percent of Revenue Officers, and 51 percent of other employees, said they were satisfied with personal safety in IRS offices, and improving building security was the most frequent recommendation made by those surveyed.

Many Collection employees during field interviews estimated that at least one-third of all incidents are not reported, because while the taxpayer grew angry or verbally abusive, the employee doubted he or she was in danger of bodily harm. Some of these unreported incidents involved taxpayers who displayed or brandished deadly weapons.

RMA linked the likelihood of incidents to Revenue Officers being saddled with unmanageable caseloads, frequently more than 100 cases at a time. RMA stated, "If Congress continues to press for increased and more aggressive collection, and intends to increase the number of audits conducted, serious attention must be paid to the likelihood of a decline in individual attention to taxpayer problems, and an increase in threats and assaults against IRS employees who feel they do not have the time to research their cases or arrange for protection when warranted."

RMA also criticized field managers' practice of using quantitative measures to evaluate the performance of Collection Division employees. It stated, "Because of the frequency with which this issue was raised, the significant impact it appears to have on employee morale, and its implications for employee safety if precautions are sacrificed in the interest of meeting quotas, we recommend that IRS administrators ensure that Collection group managers and their supervisors adhere to IRS policy on the use of qualitative measures to evaluate employee performance. We also recommend that management consider tempering the emphasis on maximum productivity with a greater concern for screening potential problem cases."

IRS employees are looking for the government to send a stronger message to the public that offenses against them will not be tolerated, according to the survey. "This message should take the form of a policy of increased arrests and referrals for prosecution of threat and assault offenses," RMA concluded.

The Subcommittee should recommend legislation providing hazardous duty pay for, and treatment of Revenue Officers on a par with other law enforcement officers for retirement purposes. The duties of a Revenue Officer are more dangerous and stressful than many other law enforcement positions. We believe that law enforcement officer retirement for these employees is fully justified.

Appeals and Tax Litigation

The current budget for FY 1988 includes a "tax shelter initiative" to reduce the backlog of cases in Appeals. Under this program, 425 new Appeals Officers were added, bringing the total number to 1,592. The President's budget proposes to hold this level in FY 1989.

With the new resources, case disposals in Appeals will rise to 58,600, a gain of 40 percent Moreover, the average caseload per Appeals Officer will fall from 44 to 35 cases.

The problem is that new case receipts will continue to exceed disposals, because of the large number of unagreed tax shelter cases moving into Appeals from the Examination Division. As a result, the backlog of cases will continue to rise from 56,100 this year to 56,300 in FY 1989.

This problem is much worse in Tax Litigation, where docketed case receipts will exceed closures by more than 12,000 in FY 1989, and the backlog of docketed cases will rise from 96,000 this year to 109,200 in FY 1989.

As of December, 1985, the Examination Division had a record inventory of 413,665 tax shelter cases -- a number that had grown steadily since IRS began examinations of abusive tax shelters in 1981. This backlog emerged despite closure of 505,000 cases during 1981-1985 with assessments totaling $8.2 billion, because 91 percent of the assessments or $7.4 billion, were contested. This caused the buildup of case inventories in Appeals and Tax Litigation. Tax shelter cases comprised 61 percent of the Appeals workload and 30 percent of Tax Litigation's at the end of 1985.

The backlog of 413,000 tax shelter cases constitutes a 6-7 year workload at the current rate of new case receipts (58,800 annually in Appeals and 65,700 in Tax Litigation), and more cases are being generated. Thus, it is evident that the additional 425 Appeals Officers provided this year will be insufficient to bring the backlog under control. NTEU's proposed budget for IRS would provide 600 additional

Appeals Officers to begin reducing the backlog, at a cost of $36 million. We strongly urge adoption of our proposal.

In his budget message, the President stated: "I am proposing the development of a private mediating institution to reduce to backlog of cases before the U.S. Tax Court." This proposal originated in OMB's privitization office, and is now being studied by IRS. Administration spokesmen elaborated that, by allowing taxpayers to take certain cases before private arbitrators, they hoped to reduce the backlog of 74,000 cases pending before the Tax Court and expedite collection of an estimated $20 billion in contested revenues. However, in recent congressional testimony, Chief Judge Samuel Sterrett stated that such a proposal would probably not enhance the court's efforts to reduce the backlog of cases, and he questioned the appropriateness of delegating any aspect of the government's tax collection process to private interests.

The proposal of allowing private arbitrators to serve as hearing examiners for certain matters that would otherwise go to Tax Court has been raised periodically. NTEU believes that the Federal government already possesses all the resources required to institute an effective arbitration process that would be fair to the taxpayer and government, and binding upon both. We suggest that Congress consider, as an alternative , that Appeals Officers be reorganized into a separate division of IRS and allow to hear cases on a final and binding basis, just as

Administrative Law Judges operate today. This would be good for the taxpayer and good for IRS because it would assure that competent individuals were hearing and deciding cases. This alternative would be less costly, easier to manage, and would not involve delegation of government power to private parties. Appeals Officers assuming this quasi-judicial role would be empowered to adjudicate the interests of taxpayers and government, as contrasted to their present function of negotiating settlements with taxpayers on behalf of the government.

Taxpayer Service

This year, IRS will be severely tested in implementing the sweeping changes enacted in the Tax Reform Act of 1986. The Act changed 2,000 sections of the Internal Revenue Code and necessitated changes in over 200 forms and instructions. The verdict is still out whether the tax code has been made simpler or more complex, and whether ordinary taxpayers will have the ability to understand the tax law and comply. Given such sweeping changes, a level of negative reaction can be anticipated, and the challenge to IRS is to earn the support of public opinion and prevent negative feelings from becoming widespread.

Taxpayers look to IRS to help them understand the tax law so they can accurately self-assess their tax. It is in large part the diligence and competence of the Taxpayer Service representatives that sustains the willingness and ability of taxpayers to voluntarily comply. Recognizing this, IRS had added 1,000 tax assistors and 900 new lines to its toll-free telephone system this year.

IRS is moving to automate taxpayer services through computerized access to taxpayer account information and a data base for researching answers to tax law questions. Without a doubt, the positions of Taxpayer Service Specialist and Taxpayer Service Representative require knowledge and ability beyond that contemplated when those positions were established, and IRS would be well-served by upgrading these positions to increase the pay and career opportunities of Taxpayer Service employees.

IRS' program for Taxpayer Service in FY 1989, the second year of tax reform, is predicated on fewer taxpayers requesting help in the second year. As a result, IRS anticipates assisting 44 million taxpayers in FY 1989 compared to 46 million this year. What in fact happened is that IRS went to OMB with a request for 1,600 additional positions for Taxpayer Service, but came back with a 30 position cut. As a result, IRS has had to plug the gap with skilled revenue agents, tax auditors, and revenue officers to the tune of 92-staff years, up from 80 staff-years in 1987.

A single year is insufficient for taxpayers to digest all the changes in the tax code. Moreover, we do not know how many inquiries due to unclear notices and correspondence will be received next year, as a result of the tax law changes. Will the confusion IRS has identified on some items, such as state sales taxes, mortgage interest, capital gains, and dependency deductions, be eliminated by next year? We believe the demand for assistance will remain strong.

Accordingly, NTEU recommends that an additional 800 tax assistors be allocated for Taxpayer Service next year, to be utilized in areas of heaviest demand to ensure that 85 percent of the demand can be handled at any one time. The cost of these positions, $24 million, is included in the NTEU recommendation shown in Table 5.

In its quality control surveys during the current filing season, IRS found that tax assistors gave incorrect answers 25 percent of the time, and this was confirmed by GAO which found an even higher rate of incorrect response. Recognizing the need for accuracy, NTEU has repeatedly urged that this is best obtained by training and career opportunities which make it attractive for experienced employees to remain in the Service. A quality control system, if implemented, should be conducted with discretion, as it can become a serious morale problem and produce results opposite to those intended.

Service Center Operations

IRS must pay greater heed to quality control in returns processing activity. In recent years, error resolution files were so large that IRS had to change its tolerance levels for clearing up these cases. This didn't reduce the volume of errors, it simply redefined the errors IRS would work to correct. Inadequate quality control and larger error resolution files lead to erroneous notices which cause grief to taxpayers, especially when they continue to receive notices because their reply is tied up in the Correspondence/Adjustment Branch. Last year, an internal IRS memorandum stated that "management review of pipeline correspondence has reflected error rates as high as 40 percent." Such conditions stem from production pressure and failure to take the time to do the job right the first time. Resources are then expended in notice review in an effort to prevent taxpayers from receiving erroneous notices.

In Service Centers, IRS is not performing the quality review required by its own manual. We strongly recommend that IRS apply the needed resources to achieve the quality standards in returns processing activities that are called for by the Internal Revenue Manual. Errors in these activities affect many IRS functions. For example, in a recent GAO review of the Automated Collection System, problems arose with the taxpayer because IRS had posted returns late, posted returns to the wrong account, or made an error in posting information to an account.

The adjustments/correspondence inventory consists of taxpayer correspondence and tax account adjustment requests. The unpostables inventory consists of transactions on magnetic tape that will not post to taxpayer accounts at the National Computer Center. If correspondence and unpostable inventories are not kept at manageable levels, taxpayers will experience delays in getting their inquiries answered and their transactions posted to the master file. This could trigger erroneous notices which go uncorrected because the taxpayer's reply lands in the correspondence backlog.

Service Centers must be capable of adjusting to rapidly shifting workloads. During the current filing season, IRS has been deluged by requests from partnerships and corporations to retain a fiscal year. Taxpayer requests to change accounting methods have also become backlogged. IRS is shifting personnel to handle these inventories.

IRS plans to bring a full state-of-the-art system, known as the Tax System Redesign, on line in FY 1993. TSR is supposed to provide the modern technology needed to carry IRS into the 21st century. In view of the experience with the Service Center Replacement System introduced in 1985, the Subcommittee should closely monitor IRS' ADP program to ensure that further computer acquisitions are properly planned and implemented. It is especially important that training of Service Center personnel be planned for and introduced soon enough to be effective.

In each service center, Tax Examiners are responsible for auditing returns and following up on underreporter notices and discrepancies disclosed by document matching. As these functions have grown, IRS has failed to recognize the complexity of the Tax Examiner position and the skills and knowledge required. The result of undergrading and low pay has been an exodus from these positions. There are almost 1,000 unfilled positions in Andover, Kansas City, and Philadelphia alone. The Philadelphia Service Center has virtually no experienced Tax Examiners. We strongly urge upgrading the pay and skill standards for Tax Examiners to accurately reflect the skills and knowledge required by the position.

Electronic Filing

Electronic filing of tax returns began as a pilot project last year and has been expanded to include more geographical areas and business returns this year. Because costs are reduced for processing, storage and retrieval of paper tax returns, IRS estimates that electronic filing could save the government in excess of $200 million over the next ten years. IRS hopes that eventually one-third of the 110 million individual returns can be filed electronically by the early 1990's.

The electronic filing system transmits return information directly to computers at IRS processing centers over telephone wires from the offices of more than 2,000 participating tax return preparers and service bureaus. The advantage to taxpayers is that refund checks can be received in 3-4 weeks rather than the normal 6-8 weeks. There are also fewer possibilities for error in processing. At present, only taxpayers with refunds due may file electronically, but future technology may make it possible for taxpayers who have a balance due to file electronically also.

Treasury has already announced its intention to seek congressional authority to accept any commercially acceptable funds transfer method, including credit cards, to permit taxpayers and others who owe money to the Federal government to remit funds. OMB has estimated that, by 1991, the volume of annual credit card payments to the Federal government will total 130 million transactions worth $6.5 billion, making it the largest credit card operation in the world.

NTEU has always strongly supported the introduction of new technology, which brings with it the prospect of wider career opportunities, a more humane work place, and more efficient and responsive government. As electronic filing grows, it will unquestionably impact the work force, and NTEU expects to continue the process of negotiating adjustment plans that provide alternative employment and training opportunities within IRS for employees affected by technological change. We also believe that any staff saving from electronic filing should be retained within IRS and redirected to line positions.

Congressional Leadership Required To Improve Work Force Stability and Quality

IRS employees are a dedicated and competent work force. But far too many talented and experienced workers are leaving the Service due to low pay, stressful working conditions, and the lure of attractive careers in the private sector.

Today, IRS is experiencing a brain drain of some of its most talented people. The turnover Service-wide is 11.3

percent each year. As a result, IRS is forced to spend millions to recruit and train new people -- millions that could be better utilized to pay its experienced workers well and provide them attractive careers. A revenue agent, revenue officer, taxpayer service, or computer specialist requires years of professional development. If IRS is unable to produce these professionals in large enough numbers, and if they are being siphoned off to better-paying jobs in the country's accounting firms and corporate tax departments, technical competence in the Service will suffer, the most advanced computer systems will be operated inadequately, taxpayers will not be able to get the quality of service they deserve, and the long-run health of the tax administration system will be undermined.

The causes and consequences of unacceptable turnover and lack of stability in IRS the work force are portrayed in the following statistics.

o Service Centers are having difficulty attracting and retaining experienced employees. Whereas 55 percent of seasonal employees at Service Centers had previous IRS experience in 1984, this number had dropped to 39 percent in 1987. In the past, many seasonal employees would return to the service centers from one year to the next, bringing their experience with them. The percentage of experienced hires in the seasonal work force has been decreasing, however, from 55 percent in 1984 to 35 percent in 1986. At the Austin center, only 9 percent of new hires had prior experience in 1986.

In Andover and Atlanta, the figure was 20 percent. Staff inexperience, said GAO, decreases production and increases risk of error. For example, inexperienced code and edit staff in the Philadelphia Service Center processed 16 percent less 1040's per hour than experienced staff, and made 71 percent more errors. IRS is so hard pressed that an error rate of 18 percent or higher was considered acceptable for newly-trained data transcribers in 8 of 10 service centers. GAO concluded: "The benefits from converting seasonals to permanents or from any other steps that might be taken to stabilize the service center work force are critical. Without such stability, IRS will find itself using more and more of its limited resources to avoid and/or correct errors caused by inexperience."

- Only about 45 percent of Service Center workers are permanent employees, even though 58 percent of the jobs are supposed to be permanent positions. GAO testified last year that Treasury had disapproved IRS' proposals to convert more temporary employees to permanent positions. In 1984, Service Centers at Atlanta, Philadelphia, Ogden, Austin, and Andover all had separation rates for their permanent workforce (excluding temporary and seasonal employees) of 9 percent and above. Austin had a 13.3 percent rate, and Andover 17 percent. All Service Centers together had a 9.5 percent separation rate for permanent employees. According to GAO, Service Center officials attribute high turnover to "lack of part-time work and flexible work hours at the centers, job stress due to performance standards, and entry level salaries that were often lower than those offered by local fast food restaurants."

- According to research by Eugene Steurele of the American Enterprise Institute, "IRS has almost no chance of hiring computer science majors out of college." IRS' Recruitment and Turnover Study (1984), found that the entry-level salary in the private sector for computer science majors with no job experience was $23,500, while government entry-level salaries were between $13,903 and $17,221. One IRS computer division had 213 employees, of whom only 4 held advanced degrees in information systems and only one held a bachelor's degree in computer science. At the Philadelphia Service Center, 21 additional computer operators were to be hired for 1986. Well into the filing season, 19 of the operator positions remained unfilled despite continuing efforts to locate competent new hires. Computer programers in IRS Service Centers needed to program the new Sperry computers in 1985 were insufficiently trained and inexperienced in the new COBOL language, resulting in poorly written programs that took inordinately long times to run.

- Turnover among permanent employees in the rest of of IRS is equally high. Regions collectively had an 11.4 percent separation rate in 1984, led by Southeast (12.5 percent), Southwest (14 percent) and Mid-Atlantic (14.6 percent). The average for district offices was 12.3

percent, and in the national office 9.8 percent. The Service-wide average was 11.3 percent.

For the critical occupations of Revenue Agent, Revenue Officer, and Tax Auditor separation rates are excessive. Average rates Service-wide were 7.4 percent for Revenue Agents, 8.3 percent for Revenue Officers, and 9.3 percent for Tax Auditors in 1984. However, the average rates conceal a much deeper malaise. More experienced employees are leaving the Service than inexperienced employees. An IRS study of Revenue Agent Attrition for FY 1979 showed that voluntary separations in GS-9 through GS-13 were 63 percent of the total number of Revenue Agent quits, while the other 37 percent were in GS-5 through GS-7. The field offices with the highest quit rates of experienced agents were located principally in the Sunbelt states of the Southeast and Southwest. Inadequate salaries and production pressure are important factors in this attrition.

o IRS is increasingly unable to compete with the salary scales of the private sector in attracting college accounting graduates. Delay in passage of appropriations bills also precludes IRS from making firm job offers until late summer or fall, long after the private sector. An IRS study completed in 1981 found that the average starting salary offer to Bachelor's degree candidates in accounting was $16,728. At the 50th percentile, above which 50 percent of the offers were made, the salary offer for graduates with a Bachelor's degree in accounting was $16,800. The starting salary offer at the 10th percentile, above which 90 percent of the offers were made, was $15,000. These figures compared to IRS starting salaries at the time of $12,266 at GS-5 and $15,193 at GS-7 level. The situation is far worse today as Federal pay scales have fallen further behind the private sector.

IRS can do little about the attractive career opportunities that abound for its skilled people in the private sector. But it does have the means, with Congressional assistance, to tackle the two main sources of high turnover: low pay and production pressure.

Congress and the Administration need to address the problem of IRS salary scales being out of line with the private sector in terms of both pay and responsibility. For too long, the Federal government has kept the upper grade of an Internal Revenue Agent at the GS-13 level, despite the tremendous growth in complexity of our tax laws and the degree of accounting sophistication with which returns are prepared. If experienced agents are to be retained, it is essential that the senior grade level for a Revenue Agent be raised to GS-14, and the journeyman level be raised from GS-11 to GS-12. IRS should begin upgrading the positions of Revenue Agent Team Coordinators, who lead teams in conducting major audits, to GS-14 immediately. In addition, we believe that IRS job responsibilities warrant immediate action to effect the following changes:

- Upgrade Revenue Officer positions by raising the journeyman grade level from GS-9 to GS-11, with appropriate higher grades for revenue officers now at the GS-12 level;

- Upgrade Appeals Officer positions to provide remuneration comparable to that received by those with whom they must deliberate;

- Upgrade Tax Auditor positions to GS-11, commensurate with their work responsibilities;

- Upgrade the journeyman grade for Tax Examiners;

- Upgrade to GS-6 the journeyman level for Data Conversion Terminal Operators, Service Center Clerks and Control Clerks, and Group Clerks/Secretaries.

Many of our people with highly developed tax expertise and technical skills would remain in the Service if rewarded with higher pay for their skill level. Practically the only way this can be done today is by advancing the worker into a higher grade, where positions are too few in number to give all qualified employees working at the same skill level additional pay. Advancing to a higher grade frequently means entering managerial ranks, where duties are those of a manager rather than of a skilled technician, resulting in technical expertise of the individual not being utilized as fully as possible. What is needed is a means of recognizing with additional pay the level of technical expertise attained by IRS workers.

Accordingly, we urge Congress to authorize IRS to spend up to $50 million for a pilot program to pay a skill-level differential to employees in critical occupations with high turnover. Such pay for higher skills would be designed to offset the differential between the private sector and IRS with respect to workers with comparable skills, thereby enhancing retention. This concept has nothing to do with performance pay, which is designed to reward superior performance but is beset with serious practical difficulties. It is, as I say, designed to recognize the higher skill levels attained by experienced workers and required in their jobs, and to reward these skilled employees with a pay differential that would narrow the gap with the private sector and reduce the present drain in critical occupations.

NTEU will work with IRS management to implement this new pay initiative in the same spirit of cooperation that led to the introduction of employee-manager quality councils. Quality councils put groups of employees and managers together throughout the Service to improve quality of the work product and taxpayer satisfaction. When such groups began employment tax problems that were leading to working on erroneous notices to taxpayers, the rate of errors dropped from 16,000 a week to 1,000 after the quality team's 90 recommendations , were implemented, according to IRS.

NTEU and IRS need to work together with Congress to extend this success into the important areas of work force recruitment and retention, based on pay scales for skilled employees commensurate with those in the private sector.

IRS Contracting Out (A-76) Studies

In closing, we wish to call attention to the fact that this budget contains a plan to save $5 million and 587 average positions by contracting out IRS activities to the private sector. IRS is currently making the required A-76 studies, but we are unaware of the activities being looked at.

GAO has reviewed the Administration's contracting out policy, and noted serious problems with it. For one, the definition of the job to be contracted has included only some of the requirements. For another, contractor costs have been underestimated. GAO found that in 9 of 11 contract functions in the Navy, "projected savings were not realized due to higher than estimated contract administration costs and modifications increasing the scope of work."

GAO found that contracting out studies can severely affect employee morale and productivity, creating anxiety that is heightened by the length of time it takes to complete a study. GAO also reviewed the effects on 2,535 employees whose jobs were contracted out in 1985. Of these workers, 74 percent had found other government jobs, with the majority taking positions at lower grades; 7 percent went to work for the contractor; 5 percent were involuntarily separated; and the remainder resigned or retired. Of those who were involuntarily separated, over half said they received unemployment compensation or public assistance. Of those who had gone to work for the contractor, 53 percent said they received lower wages, and most reported that contractor benefits were not as good as government benefits.

NTEU is strongly in favor of making the government more efficient, but evidence shows the contracting out policy is having quite the opposite effect. It is counter-productive, wasteful, and demoralizing. We urge Congress to exclude all Tresury Department functions from the operation of this policy.

Mr. Chairman, this concludes my statement. I will be glad to answer any questions.

Table 1

INTERNAL REVENUE SERVICE
FY 1989 CONGRESSIONAL SUBMISSION
Amounts in thousands

	FY 1988 Revised		Total FY 1989		Difference	
	Ave. Pos.	Amount	Ave. Pos.	Amount	Ave. Pos.	Amount
Executive Direction	116	8,077	116	8,203	0	126
Management Services	1,512	79,088	1,514	86,344	2	7,256
Salaries & Expenses	1,628	87,165	1,630	94,547	2	7,382
Returns Processing & Revenue Accounting	29,978	1,194,466	30,178	1,216,423	200	21,957
Computer Services	5,182	528,839	5,997	633,711	815	104,872
Processing Tax Returns	35,160	1,723,305	36,175	1,850,134	1,015	126,829
Examination	32,975	1,375,113	33,418	1,461,944	443	86,831
Appeals & Tax Litigation	5,277	244,824	5,279	242,497	2	(2,327)
Employee Plans & Exempt Organizations	2,903	121,669	2,925	121,781	22	112
International	737	33,992	790	38,597	53	4,605
Examination & Appeals	41,892	1,775,598	42,412	1,864,819	520	89,221
Tax Fraud Investigations	4,516	243,749	4,620	257,565	104	13,816
Collection	20,334	852,256	20,379	846,310	45	(5,946)
Taxpayer Service	7,206	302,650	7,174	309,926	(32)	7,276
Enforcement Lit. & Tech.	1,425	74,157	1,421	76,424	(4)	2,267
Investigation, Collection & Taxpayer Service	33,481	1,472,812	33,594	1,490,225	113	17,413
TOTAL	112,161	5,058,880	113,811	5,299,725	1,650	240,845

Table 2

INTERNAL REVENUE SERVICE
AVERAGE POSITIONS
FY 1983 - 1989

	Executive Direction	Management Services	Returns Processing & Revenue Acctg.	Computer Services	Examination	Appeals & Tax Litigation	Employee Plans & Exempt Organizations	International	Tax Fraud Investigations	Collection	Taxpayer Service	Enforcement Rulings & Technical	Service Total
FY 1983 Actual	119	2,016	19,287	1,246	27,638	2,967	2,115	----	4,074	18,149	4,410	1,582	83,603
FY 1984 Actual	115	2,169	20,279	1,464	28,050	3,499	2,432	----	4,474	19,194	4,439	1,520	87,635
FY 1985 Actual	126	2,145	24,449	1,626	29,009	3,662	2,418	----	4,686	18,132	4,504	1,422	92,259
FY 1986 Actual	123	1,992	27,133	3,352	28,656	3,586	2,377	----	4,446	17,147	5,696	1,350	95,886
FY 1987 Actual	119	1,723	28,166	3,760	31,399	3,996	2,513	689	4,593	17,615	6,257	1,359	102,189
FY 1988 Revised	116	1,512	29,970	5,182	32,975	5,277	2,903	737	4,516	20,334	7,206	1,425	112,161
FY 1989 Request	116	1,514	30,170	5,997	33,418	5,279	2,925	790	4,620	20,379	7,174	1,421	113,811

NOTE: Staffing prior to FY 1983 is not comparable by budget activity because of reorganization

Table 3

INTERNAL REVENUE SERVICE
Employment History
Selected Occupations
(Average Positions)

	Revenue Agents	Tax Auditors	Revenue Officers	Special Agents	Appeals Officers	Tax Processing	Taxpayer Service	Problem Resolution Program *
Fiscal Year								
1981 Actual	13,272	4,079	5,323	2,751	835	23,884	5,325	214
1982 Actual	13,554	3,888	6,028	2,685	821	20,523	4,248	184
1983 Actual	13,613	3,821	7,301	2,593	891	17,915	4,410	199
1984 Actual	13,984	3,608	7,377	2,843	1,127	16,546	4,439	206
1985 Actual	13,598	3,536	7,397	2,821	1,050	19,605	4,584	208
1986 Actual	13,658	3,317	7,265	2,800	1,052	23,758	5,606	211
1987 Actual	15,036	3,184	7,340	2,728	1,167	25,172	6,257	209
1988 Revised	16,428	3,644	9,260	2,853	1,592	26,002	7,206	253
1989 Estimated	16,917	3,644	9,311	2,906	1,592	26,179	7,174	299
Change								
Number								
89 over 88	489	0	51	53	0	177	(32)	46
89 over 81	3,645	(435)	3,988	155	757	2,295	1,849	85
Percent								
89 over 88	2.97%	0.00%	0.55%	2.00%	0.00%	0.68%	-0.44%	18.18%
89 over 81	27.46%	-10.66%	74.92%	5.59%	90.65%	9.60%	34.72%	39.72%

* Authorized Cadre

Table 4

INTERNAL REVENUE SERVICE
FY 1989 Congressional Submission
Selected Workload Estimates

	FY 1987 Actual	FY 1988 Revised	FY 1989 Estimate
Primary Tax Returns Processed (Millions)	182.9	187.0	190.9
Examinations (Thousands) 1/ 3/	1,214	1,371	1,511
Percent of Audit Coverage	1.10%	1.19%	1.27%
Tax Fraud Investigations Initiated	5,511	5,750	5,848
Delinquent Returns Secured (Thousands) 3/	4,155	3,977	4,091
Accounts Receivable Dispositions 3/ (Thousands)	2,631	3,222	3,309
Active Inventory or Accounts Receivable at Close of Year (Thousands)	2,387	2,414	2,405
Taxpayers Assisted (Millions) 2/ 3/	59.8	65.7	64.2
Information Returns Received (Millions)	949	1,033	1,102
Underreporter Notices Sent (Millions)	2.2	3.5	4.1
IRP Non-filer Notices Sent (Millions)	0.2	0.3	0.3

1/ Includes only examination of Income, Estate, Gift and Partnership returns.

2/ Includes assistance provided to taxpayers and taxpayer education programs.

3/ Includes International data.

TABLE 5

INTERNAL REVENUE SERVICE FY 89 BUDGET REQUEST AND NTEU RECOMMENDATION

	FY 89 BUDGET REQUEST		NTEU RECOMMENDED ADDITION FOR REVENUE INITIATIVE TO FUND COMPREHENSEIVE ANTI-DRUG PROGRAM*		NTEU RECOMMENDED APPROPRIATION FOR FY 1989	
	($000) Amount	Average Positions	($000) Amount	Average Positions	($000) Amount	Average Positions
Salaries and Expenses	94,547	1,630	--	--	94,547	1,630
Processing Tax Returns	1,850,134	36,175	+4,675	+186	1,854,809	36,361
Examination and Appeals	1,864,819	42,412	+158,882	+3,829	2,023,701	46,241
Investigation Collection & Taxpayer Service	1,490,225	33,594	+123,056	+2,827	1,613,281	36,421
TOTAL	5,299,725	113,811	+286,613	+6,842	5,586,338	120,653

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[*] Contained in proposed Anti-Drug Abuse Act of 1988, as introduced in S. 2205 by Senators DeConcini and D'Amato and 64 co-sponsors; and in H.R. 4230 by Representative English and 8 co-sponsors.

Senator DECONCINI. I have asked a lot of my questions.

You heard the Secretary talk about this new rate that he is paying IRS agents up in New York. Does that pose a problem with your membership when you get to go to New York? You make a lot more money than you did if you stay in Washington or Baltimore.

Mr. TOBIAS. One of the problems is not only that, but it is also the problem that the way the rate was implemented in New York, if you work in Manhattan and you are a grade 7 through a grade 11, you receive more money. If you work in Westchester County, where the cost of living is much the same, you don't receive it.

Senator DECONCINI. What is the management answer on that?

Mr. TOBIAS. The Office of Personnel Management really is responsible for setting it. They are not obligated to explain why they set it only in Manhattan and not on Long Island or not in Westchester County.

Senator DECONCINI. The only way you can get an answer is to bring a suit?

Mr. TOBIAS. Exactly.

Senator DECONCINI. Based on the fact that it should be applied outside of Manhattan, so it is a big burden on your and our members.

Mr. TOBIAS. A suit really isn't effective because Congress has delegated total discretion to the Office of Personnel Management to do as they choose.

The second part of the problem is that it doesn't deal with the retention issue, because who are grade 12 and grade 13 are not affected.

Senator DECONCINI. Do you give any input on OPM when they do that? Do they ask you?

Mr. TOBIAS. They do not.

Senator DECONCINI. No hearings, nothing to present any information on the cost of living?

Mr. TOBIAS. No.

Senator DECONCINI. Do you know if IRS or Treasury gets any input with OPM on things like that?

Mr. TOBIAS. Yes; the way the process works is the agency must initiate a request to OPM for consideration. What IRS originally requests, I don't know, and what OPM finally grants is the only thing we know.

Senator DECONCINI. I don't have any other questions. Senator Domenici has some questions that I will submit for the record.

Mr. TOBIAS. OK.

Senator DECONCINI. The Senator from Maryland, do you have some questions?

Senator MIKULSKI. Mr. Chairman, you went over several of the work force questions that I had. I think Mr. Tobias heard the questions that I posed to the Secretary of Treasury, Mr. Baker. Of course, we would welcome your own recommendations as well.

When you say that an accountant gets paid $15,000 a year, or that is the IRS offer, and that was 5 years ago, what would an accounting major, fresh out of college, be offered? We are talking right out of college, with an accounting degree.

Mr. Tobias. $15,118.

Senator Mikulski. Since 1983, that has not gone up, or did it go from $12,500 to $15,000?

Mr. Tobias. That is correct.

Senator Mikulski. That is what GS level?

Mr. Tobias. Five.

Senator Mikulski. A GS-5 is $15,000 a year?

Mr. Tobias. Yes.

There has been a study recently done by Price Waterhouse, I believe it was Price Waterhouse that did a study of what the accounting firms were paying——

Senator Mikulski. As I understand, because I was recently talking to my niece who is considering being an accountant major, starting salaries at a regular accounting firm, we are not talking the big eight, for young people is $22,000 to $23,000.

Mr. Tobias. That is right on the mark.

Senator Mikulski. Then they like to train them the way they want to be trained, the kinds of businesses that they give counsel or advice to.

Mr. Tobias. That is correct.

Senator Mikulski. Then the larger accounting firms, after you have a couple of years under your belt, just about the time your GS-5 would be going to a GS-7 or a GS-9, the accounting firms are recruiting, particularly in this case a female in accounting where they want to boost their affirmative action, even without that, they are talking about with 3 to 5 years of experience in an accounting firm, you could move to one of the big boys at about $35,000.

Mr. Tobias. Yes; $35,000 to $37,000, that is correct.

Senator Mikulski. By the time you are 30 years old, you could be making close to $40,000 a year.

Mr. Tobias. That is correct.

Senator Mikulski. Whereas if you come to civil service, after 8 years, you would be somewhere at about what, $26,000 or $27,000, and that presumes in-grade increases.

Mr. Tobias. With a regular promotion, you are at about $27,7000.

Senator Mikulski. After almost a decade of experience, you are where a lot of them begin.

Mr. Tobias. That is correct.

Senator Mikulski. That is the point that you want to make.

Mr. Tobias. That is correct. If the Internal Revenue Service is going to maintain credibility with the public and also with the accounting firms themselves, we have to be good. In order to be good, we have to be able to attract people who are sufficiently talented to compete with the people who are hired by the taxpayers to represent them. The IRS has had a real problem doing that.

Senator Mikulski. I think you made your point very well.

I don't want to go over the same ground that Senator DeConcini already has. I want to ask about an issue, again related to employees, where you and I both agree and disagree, and that is on the subject of drug testing.

As you know, the Federal Government, HHS, has come out with its drug testing guidelines. As you know, I have advocated random drug testing, and you have disagreed with that position in two ways. One the constitutional issue, which I respect and the courts are now lending their judgment on that.

The other, and I thought most accurate criticism of random drug testing, was the unreliability of the laboratory, the failure to have clear guidelines for evidentiary reasons, and all those issues around the laboratory testing that you felt did not provide adequate employee safeguards, all of which I thought were very meritorious.

Now HHS has come out with their guidelines. Have you had a chance to review them, and though I am sure you are still not happy with random drug testing, do you feel these new guidelines meet some of your concerns?

Mr. TOBIAS. They meet some of them. One major concern that they didn't meet was the concern that the urine sample be divided and stored by the agency, one-half stored by the agency and one-half sent to the laboratory itself.

What the regulations provide is that the sample will be sent to the drug testing firm where it is divided there. But if there is a problem in identification, if there is a problem with storage at the facility, there is no way to retest the sample.

Senator MIKULSKI. There is no safety net for the employee.

Mr. TOBIAS. There is no safety net under those circumstances for the employee.

I still believe that the regulations are going to be problems. There will be problems in the equipment that is used for the testing procedure, and there are audits, but they are few and far between, of those drug testing laboratories. I believe that that is going to be a problem as well.

Senator MIKULSKI. Mr. Tobias, I know HHS just issued these new guidelines last week. I am sure you are just reviewing them, and I am sure that you want to give them thorough attention. I would like to request, for the record, that you submit a comment or a critique on those guidelines.

Mr. TOBIAS. I would be very happy to.

Senator MIKULSKI. For those of us who have been involved in the random drug testing issue, the issue of employee safeguards was paramount to us, and we are trying to assure public safety.

Taking, I think, the rather dramatic step of advocating random drug testing, then you must use the best available techniques, methodologies, and so on. We are interested in those employee safeguards. So we would welcome your critique.

Mr. TOBIAS. One other point I would like to raise, we asked HHS to more specifically define or to provide some examples of what constituted sufficient unusual circumstances to justify a requirement that the employee be directly observed while they are urinating. The newest issuance does not provide any guidelines whatsoever. It is left up to the collection site person to make that decision as to whether or not what you do constitutes an unusual circumstance.

Senator MIKULSKI. The very nature of drug testing, urinalysis, is, in and of itself, awkward. I think your request for case examples where they are being observed is a bona fide one.

Why don't you take a look at the entire guidelines. I know that the chairman has those same questions.

Senator DECONCINI. I sure do, and I thank the Senator for bringing that up.

Senator MIKULSKI. Random drug testing was never meant to be a punishment, nor was it meant to be an opportunity for humiliation, which you have just offered the suggestion that it could occur.

It is really where people are involved in very sensitive positions, like public safety, and so on, that we protect the larger community interests, and quite frankly, we ask some employees to make the sacrifice.

Let's hear your critique and see if we can do a little bit better job at that.

Mr. TOBIAS. Thank you for your interest. I appreciate.

Senator DECONCINI. Thank you, Mr. Tobias for your statement. We appreciate your involvement and constructive suggestions each year.

Senator MIKULSKI. You were terrific.

Mr. TOBIAS. Thank you.

SUBCOMMITTEE RECESS

Senator DECONCINI. The subcommittee will stand in recess until Friday, April 29, when we will conclude our fiscal year 1989 appropriations hearings with testimony from a number of public witnesses and the Office of Personnel Management. The hearing on that day will be in SD–192, beginning at 9:30 a.m.

[Whereupon, at 3:20 p.m., Monday, April 18, the subcommittee was recessed, to reconvene at 9:30 a.m., Friday, April 29.]

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1989

FRIDAY, APRIL 29, 1988

U.S. Senate,
Subcommittee of the Committee on Appropriations,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Dennis DeConcini (chairman) presiding.

Present: Senators DeConcini, Mikulski, and Domenici.

OFFICE OF PERSONNEL MANAGEMENT

STATEMENT OF CONSTANCE HORNER, DIRECTOR

ACCOMPANIED BY:
- JEAN M. BARBER, ASSOCIATE DIRECTOR FOR RETIREMENT AND INSURANCE
- MARK J. BARNES, ASSOCIATE DIRECTOR FOR ADMINISTRATION
- JAMES M. LOISELLE, BUDGET OFFICER

OPENING REMARKS

Senator DeConcini. The Subcommittee on Treasury, Postal Service and General Government will conclude its fiscal year 1989 appropriation hearings by receiving testimony from the Office of Personnel Management, and a number of outside public witnesses.

We are delighted to have with us the distinguished head of OPM, Mrs. Constance Horner, who will lead off this morning's hearings.

Director Horner, let me begin today on a very positive note. Please take your chair, and those who want to come up with you.

As you know, Mrs. Horner, I have had an intense interest in the Combined Federal Campaign for many years. In fact, I believe I have questioned you very closely on the subject of the CFC every year that you have come before this committee. Likewise, I debated this issue with you and your predecessor a number of times.

This year, I have only one thing to say about the CFC, and that is to say thank you for the professionalism that you and staff have addressed. I guess when you get your way, or part of your way, you always feel good. I feel that we have reached some accommodation here in this area, and your cooperation is what made it happen, and those of your staff to see other views, also I hope that we moderated to some extent.

I understand that the final regulations will be published in the very near future. These regulations combined with the statutory language passed last year set a standard for the campaign that is amenable, and which I hope will be emulated by State governments and the private sector.

Before I leave the subject, let me also express appreciation for the hard work of your staff on the issue, particularly Hugh Hewitt has been a great help and I am supporting nomination for Deputy Director of OPM without any problems whatsoever. I think he is eminently qualified and will do a fine job.

Before we hear from the OPM, I want the record to show that this subcommittee received testimony from every agency, office, and commission that is funded in our bill. We have held a total of 9 half-days of hearing, plus another special hearing on February 22 on the Bahamas and Puerto Rico and their efforts to help us fight drug trade. We believe that we have put together a good record that will help us to make funding recommendations for next year.

I also want to pay thanks to Bobby Mills, Kathy Nageotte, and the staff, the minority staff and my ranking member for his participation in making this an enjoyable process that I think was very learning, and also to Laurie Sedlmayr for her efforts on the CFC.

I will now yield to the Senator from Maryland for any opening statement that she may have.

Senator MIKULSKI. Thank you, Mr. Chairman.

I just want to welcome Ms. Horner for her appearance before the subcommittee. While at times, we have disagreed on particular policies, we have kept the lines of communication open, and I am most appreciative of that.

During the course of our questions, I am going to talk about Federal Employees' Retirement System [FERS], pensions, drugs, and day care, all those things that affect the Federal workplace. But as you were complimentary in terms of the Combined Federal Campaign effort, I am going to particularly thank you for the way you have addressed the AIDS policy within your own agency.

I think that you have been a real leader within the Federal work force, Mrs. Horner, in the way you faced that issue and the way you faced the issue from the standpoint of addressing it as a public health issue. I think you showed professionalism. I think you showed compassion. I think in this way you were able to mute hysterical reactions to the presence of an AIDS employee in the Federal work force, while at the same time deal with the insured safety of Federal employees.

I just think that you did a terrific job in the way you responded to AIDS. I know that you were touched personally by your own son in the fight of a teacher, and you essentially took something personal and made it personnel. I would like to compliment you on that, because I think we are moving in the direction of a very sound personnel policy in this area. Then we will get into drugs, FERS, and other things.

Senator DECONCINI. Ms. Horner, after that maybe you don't want to testify. [Laughter.]

Mrs. HORNER. I think that it would be a good time to leave, sir.

Senator DECONCINI. You can introduce those who are with you, we know most of them, and you may summarize your statement, if you would, so that we can ask you some questions.

Mrs. HORNER. Thank you very much, Mr. Chairman.

Thank you very much, Senator Mikulski, for your very kind comments.

Before I begin, I would like to say, Mr. Chairman, that all the kind things you said about my staff and the work that my staff has done on the Combined Federal Campaign, obviously, apply equally, if not doubly, to your staff. I have heard nothing but good things about the cooperation and common sense that your staff has brought to this issue, which as you perhaps better than anyone else in the world know, has been a very long and thorny issue, and I am happy that we are bringing it to a happy resolution.

I have with me our Associate Director for Retirement and Insurance, Jean Barber; Associate Director for Administration, Mark Barnes; and Budget Officer, James Loiselle.

LEGISLATIVE PROPOSALS

As I am sure you are aware, OPM has already proposed a number of major legislative changes in this Congress for the Federal personnel system, and Federal employee pay and benefits programs. If I may, I would like to briefly review those initiatives and discuss our newest proposals before turning to our budget.

We continue to seek enactment of the Civil Service Simplification Act. This bill will provide the authority to implement a reformed system for the Federal Government's personnel operations, which will implement the President's decision to replace a 65-year-old classification system with a more modern management system that emphasizes simplified approaches to classification, more flexibility in hiring, pay-for-performance, and less emphasis on the burdens of paperwork and form at the expense of substance. This system will be implemented in a cost-neutral manner, and will provide managers with the tools they need to manage and employees with the incentive to perform to their fullest potential.

We have also proposed legislation to provide a major new Federal employee benefit, and that is insurance for long-term health care. Federal employees are as worried about long-term health care as any American workers, and we think that the Federal Government can exercise some leadership here in showing that it is an important issue to be confronted and not evaded. We have an excellent program designed to accommodate that need, which would not incur any additional costs to the taxpayer, but would just be a very intelligent design. I hope that the Congress will take it up.

APPROPRIATIONS REQUEST

I would like to turn to our appropriations request for OPM itself. We are asking for a salaries and expenses appropriation of $107.5 million. This includes increases in a number of program areas.

First, and very important, we are seeking a $3 million increase for our recruiting operations, our test scoring and applicant ratings, and to determine the direction of Federal recruiting throughout the next decade. We have a serious problem of staffing the Federal Government with good people and we need a lot of attention paid to that problem fast.

Second, we are seeking an additional $1 million for improving our security appraisal and assistance program, and to ensure the fitness and suitability of Federal employees. We need this money to work down a backlog in security investigations and to help agencies do a better job at their security functions.

Finally, we need to invest about $600,000 in a new accounting system. Our accounting system is 20 years old, it is outmoded, it is labor intensive, and it needs to be replaced.

For the administration of our retirement and insurance programs, we are asking for an expense limitation of $77 million. That includes $7 million of new money to develop the automation for the operations of the new Federal Employees' Retirement System. How well that new system is developed will affect how well we can serve Federal retirees for decades to come. This has to be done well.

Our appropriations request also includes payments for the Governmentwide employee benefit programs, $2.4 billion for the Government's contribution for health benefits for annuitants, and $4.9 billion for the civil service retirement fund.

GENERAL PROVISIONS

Finally, two aspects of the continuing appropriations measure for fiscal year 1988 are particularly worthy of continuation.

The first is the provision that lets OPM establish higher pay rates for positions that are hard to fill for reasons other than private sector pay competition. This provision has been very helpful to us already in addressing some of the Government's most significant recruitment and retention problems. This authority was limited to fiscal year 1988, and we would like to see it continued.

The second provision we would like to see continued is the provision for the experimental leave sharing program. Many of our employees are already deeply affected and positively affected by this program, and we would like to see it continued.

PREPARED STATEMENT

That is all I have to say formally, and I would be happy to answer any questions you have.

[The statement follows:]

STATEMENT OF CONSTANCE HORNER

THANK YOU FOR INVITING ME TO APPEAR TODAY TO DISCUSS THE PRESIDENT'S REQUEST FOR APPROPRIATIONS FOR THE OFFICE OF PERSONNEL MANAGEMENT FOR FISCAL YEAR 1989.

I AM ACCOMPANIED THIS MORNING BY MARK J. BARNES, ASSOCIATE DIRECTOR FOR ADMINISTRATION, JEAN M. BARBER, ASSOCIATE DIRECTOR FOR RETIREMENT AND INSURANCE, AND JAMES M. LOISELLE, BUDGET OFFICER.

AS I'M SURE YOU ARE AWARE, OPM HAS ALREADY PROPOSED A NUMBER OF MAJOR LEGISLATIVE CHANGES IN THIS CONGRESS FOR THE FEDERAL PERSONNEL SYSTEM AND FEDERAL EMPLOYEE PAY AND BENEFITS PROGRAMS. IF I MAY, I WOULD LIKE TO BEGIN BY BRIEFLY REVIEWING THOSE INITIATIVES AND DISCUSSING OUR NEWEST PROPOSALS, BEFORE TURNING TO OPM'S OWN BUDGET.

FIRST, WE CONTINUE TO SEEK THE ENACTMENT OF THE "CIVIL SERVICE SIMPLIFICATION ACT OF 1987." INTRODUCED AS H.R. 2966, THE BILL WILL PROVIDE THE AUTHORITY TO IMPLEMENT A REFORMED PERSONNEL SYSTEM FOR THE FEDERAL GOVERNMENT, REFLECTING THE PRESIDENT'S DECISION TO REPLACE OUR 65-YEAR-OLD CLASSIFICATION SYSTEM WITH A MODERN MANAGEMENT SYSTEM THAT EMPHASIZES SIMPLIFIED APPROACHES TO CLASSIFICATION, MORE FLEXIBILITY IN HIRING, PAY-FOR-PERFORMANCE, AND LESS EMPHASIS ON PAPERWORK AND FORM AT THE EXPENSE OF SUBSTANCE. THE SYSTEM WILL BE IMPLEMENTED IN A COST-NEUTRAL MANNER, AND WILL PROVIDE MANAGERS WITH THE TOOLS THEY NEED TO MANAGE AND EMPLOYEES WITH THE INCENTIVES TO PERFORM TO THEIR FULLEST POTENTIAL.

THE ADMINISTRATION HAS ALSO PROPOSED LEGISLATION TO PROVIDE A MAJOR NEW FEDERAL EMPLOYEE BENEFIT, INSURANCE FOR LONG-TERM

HEALTH CARE. THIS PROPOSAL WILL ENABLE EMPLOYEES, AT THEIR OPTION, TO TRADE A PORTION OF THEIR LIFE INSURANCE FOR PROTECTION AGAINST THE DEVASTATING COSTS OF LONG-TERM NURSING HOME CARE OR HOME HEALTH CARE, AND WOULD OPERATE THROUGH CONTRACTS WITH PRIVATE INSURANCE CARRIERS. WE WILL CONTINUE TO URGE THE ADOPTION OF THIS PROPOSAL.

WE WILL ALSO BE RECOMMENDING CHANGES IN OTHER PROGRAMS. IN THE AREA OF EMPLOYEE PAY, WE WILL PROPOSE REPLACING THE CURRENT SYSTEM OF VIRTUALLY AUTOMATIC WITHIN-GRADE INCREASES WITH PERFORMANCE-BASED PAY PROGRESSION. BY EMPHASIZING HIGHER PAY FOR SUPERIOR PERFORMERS, THIS INITIATIVE WILL HELP SPUR PRODUCTIVITY, THEREBY IMPROVING THE DELIVERY OF SERVICES AND REDUCING COSTS TO THE TAXPAYER.

OUR NEW PROPOSAL TO REQUIRE THE POSTAL SERVICE AND THE DISTRICT OF COLUMBIA GOVERNMENT TO PAY FULLY FOR THE COST-OF-LIVING ADJUSTMENTS IN RETIREMENT BENEFITS FOR THEIR ANNUITANTS WILL BE OF PARTICULAR INTEREST TO THIS SUBCOMMITTEE. BY MANDATING THESE ADDITIONAL CONTRIBUTIONS, WE WILL REDUCE THE SUBSTANTIAL HIDDEN SUBSIDIES TO THESE SUPPOSEDLY SELF-SUFFICIENT ENTITIES.

NOW I WOULD LIKE TO TURN TO THE APPROPRIATIONS REQUEST FOR OPM ITSELF. WE ARE ASKING FOR A SALARIES AND EXPENSES APPROPRIATION OF $107.5 MILLION. THIS REQUEST INCLUDES INCREASES IN A NUMBER OF PROGRAM AREAS. FIRST, MORE THAN $3 MILLION WILL BE USED TO INTENSIFY OUR RECRUITING OPERATIONS, IMPROVE OUR AUTOMATED TEST SCORING AND APPLICANT RATINGS, AND DETERMINE THE DIRECTION OF FEDERAL RECRUITING THROUGHOUT THE NEXT DECADE. SECOND, $1 MILLION WILL BE DEVOTED TO OPERATING A SECURITY APPRAISAL AND ASSISTANCE PROGRAM AND TO ENSURING

THE FITNESS AND SUITABILITY OF FEDERAL EMPLOYEES. FINALLY, ABOUT $600,000 WILL BE INVESTED IN A NEW ACCOUNTING SYSTEM TO REPLACE OUR OUTMODED, LABOR-INTENSIVE, 20-YEAR OLD SYSTEM. FOR OUR ADMINISTRATION OF THE RETIREMENT AND INSURANCE PROGRAMS, WE ARE ASKING FOR AN EXPENSE LIMITATION OF $77 MILLION. THE PRINCIPAL NEW COMPONENT OF THIS REQUEST IS THE $7 MILLION WHICH WILL BE DEVOTED TO THE FIRST-YEAR DEVELOPMENTAL COSTS OF AUTOMATING THE OPERATIONS OF THE NEW FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

THE OPM APPROPRIATIONS ALSO INCLUDE PAYMENTS FOR THE GOVERNMENT-WIDE EMPLOYEE BENEFIT PROGRAMS. WE ARE REQUESTING $2.4 BILLION TO PAY THE GOVERNMENT CONTRIBUTION TOWARD THE COST OF HEALTH BENEFITS FOR ANNUITANTS. WE ANTICIPATE THAT THIS AMOUNT WILL BE SUFFICIENT TO AVOID ANY REDUCTION IN THE GENERAL LEVEL OF BENEFITS UNDER THE PROGRAM.

FOR THE CIVIL SERVICE RETIREMENT FUND, WE ARE REQUESTING AN APPROPRIATION OF $4.9 BILLION IN CURRENT AUTHORITY. THIS PAYMENT, WHICH IS REQUIRED UNDER THE FINANCING SYSTEM ESTABLISHED IN 1969 BY PUBLIC LAW 91-93, REPRESENTS AMORTIZED PAYMENTS OVER A 30-YEAR CYCLE FOR THE RETIREMENT COSTS ATTRIBUTABLE TO PAY INCREASES AND BENEFIT LIBERALIZATIONS.

I WOULD ALSO LIKE TO MENTION SEVERAL GENERAL PROVISIONS OF PARTICULAR INTEREST TO OPM. ONE IS THE PROHIBITION AGAINST PAYMENTS FOR ABORTIONS UNDER THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM. THE ADMINISTRATION STRONGLY SUPPORTS THE CONTINUATION OF THIS BAR. ANOTHER GENERAL PROVISION WHICH WE STRONGLY SUPPORT IS THE LIMITATION ON PAY INCREASES FOR FEDERAL WAGE EMPLOYEES. ALTHOUGH WHITE-COLLAR EMPLOYEES' PAY CAN BE ADDRESSED DIRECTLY UNDER THE PRESIDENT'S ALTERNATIVE

PLAN AUTHORITY, WE MUST RELY ON THE GENERAL PROVISION IN THE APPROPRIATIONS BILL TO PROVIDE CONSISTENT TREATMENT FOR FEDERAL BLUE-COLLAR WORKERS. WE URGE THAT THIS LIMITATION, USING THE LANGUAGE IN THE PRESIDENT'S BUDGET COVERING ALL FEDERAL BLUE-COLLAR WORKERS, BE INCLUDED IN THE 1989 BILL.

FINALLY, TWO ASPECTS OF THE CONTINUING APPROPRIATIONS MEASURE FOR FISCAL YEAR 1988 ARE PARTICULARLY WORTHY OF CONTINUATION. THE FIRST IS THE PROVISION WHICH GRANTED OPM THE AUTHORITY TO ESTABLISH HIGHER PAY RATES FOR POSITIONS THAT ARE HARD TO FILL FOR REASONS OTHER THAN PRIVATE SECTOR PAY COMPETITION. THIS PROVISION HAS ALREADY BEEN EXTREMELY HELPFUL IN ADDRESSING SOME OF THE GOVERNMENT'S MOST SIGNIFICANT RECRUITMENT AND RETENTION PROBLEMS. SINCE THIS EXPANDED AUTHORITY WAS LIMITED TO FISCAL YEAR 1988, WE STRONGLY URGE THAT IT BE EXTENDED FOR THE NEXT FISCAL YEAR.

THE SECOND NOTABLE PROVISION AUTHORIZED OPM TO CONTINUE AND EXPAND THE EXPERIMENTAL LEAVE SHARING PROGRAM. AS CURRENTLY STRUCTURED, THE PROGRAM IS OF GREAT VALUE TO THE AFFECTED INDIVIDUALS AT VERY LITTLE COST TO THE GOVERNMENT. SINCE IT, TOO, WAS LIMITED TO A SINGLE YEAR, WE STRONGLY RECOMMEND ITS CONTINUATION IN ITS PRESENT FORM.

THANK YOU. I WOULD BE GLAD TO ANSWER ANY QUESTIONS YOU MAY HAVE.

S. 1975

Senator DECONCINI. Thank you, Ms. Horner.

As you know, I have incorporated the major provision of S. 1975, the Comprehensive Federal Law Enforcement Officer Improvement Act of 1988, into the omnibus drug bill that was introduced March 23. Among other things, this law enforcement officer improvement legislation calls for the establishment of a National Advisory Commission on Law Enforcement that will examine a whole range of pay and benefit matters as they affect Federal law enforcement officers.

Hopefully, this will become law, and we can get a comprehensive long-range analysis of the unique compensation situation of Federal law enforcement personnel, and develop some legislation and administrative changes that will make their job safer and more rewarding.

Do you have any position on S. 1975 or the section of the drug bill that I mentioned?

Mrs. HORNER. Mr. Chairman, may I provide that for the record.

Senator DECONCINI. Sure you may, we would greatly appreciate it.

If you don't want to look at the drug bill because it is about that thick right now, S. 1975 is the legislation, and I am interested in your analysis of it, it would be very helpful to us.

Mrs. HORNER. I look forward to looking at that.

[The information follows:]

S. 1975, COMPREHENSIVE FEDERAL LAW ENFORCEMENT OFFICER IMPROVEMENT ACT OF 1988

S. 1975 contains a wide variety of provisions concerning Federal law enforcement officers, and the bill is still being reviewed by the many different agencies affected as the administration develops its position.

While we cannot, therefore, take a position on the bill at this time, we do note that there has been a very significant change in the laws pertaining to the compensation of Federal law enforcement officers—and other Federal employees—since the bill was introduced. Under Public Law 100-202, the fiscal year 1988 continuing resolution, OPM has been given the authority to approve special, higher rates of pay to deal with recruitment or retention problems under any executive branch pay system, and also to deal with recruitment or retention problems that result from competition between different Federal pay systems. This broadens OPM's longstanding authority to approve such special rates of pay for employees under the General Schedule. This new authority has already been used to implement substantial pay increases for the Secret Service Uniformed Division and the U.S. Park Police, and should be very helpful in dealing with any recruitment or retention problems that arise for other Federal law enforcement officers.

LEAVE SHARING

Senator DECONCINI. On the issue of Federal employees leave sharing, there have been a number of bills introduced in the House and Senate which would address this issue through various methods. Some bills would establish a leave bank within each agency to which employees could donate annual leave, while others would have employees within a given agency donate annual or sick leave to specific individuals with personal or family emergencies.

I strongly support this concept. I feel that the overwhelming response to your pilot program demonstrated the true spirit of giving within the Nation's Federal employees. With basic agreement from all sides in support of the concept, would you share with this committee, for the record, OPM's view as to the best way to approach and address the leave sharing concept?

Mrs. HORNER. Yes, Mr. Chairman, we share with you great enthusiasm for this program, it helps people out who are in deep need.

We prefer the leave transfer mechanism to the leave bank mechanism, and there are two reasons for that. One is that we believe employees will donate more of their time if they do so in conjunction with an individual concrete case of need that they are aware of, rather than into a generalized system.

Second, if leave is put into a bank, it would be likely that employees would contribute all unused leave, and we anticipate a cost to the Government for that of about $90 million a year, and that is a cost that, obviously, is quite high and would need to be taken into consideration. So we much prefer the leave transfer mechanism.

Senator DECONCINI. Thank you.

HATCH ACT

It appears that the Governmental Affairs is preparing to mark up and report out a Senate version of legislation to reform the Hatch Act. You have gone on record, as a spokesman for the administration, opposing any reform or changing the Hatch as is currently interpreted and is on the books.

To my knowledge, if the Senate and the House were to send any Hatch Act reform bill to President Reagan, I suspect you would recommend that he veto it. But as Senator Stevens stated so eloquently during the Senate hearings in February, the time has come to reform and simplify the Hatch Act.

I guess I would like to know, why doesn't the administration avoid a confrontation with Congress, and at least sit down and talk about some modifications to the Hatch Act. Surely, even in your strong beliefs in opposition to the bills before us, there must be some places where you feel the Hatch Act could be improved?

Mrs. HORNER. Mr. Chairman, in looking at this issue over the course of about 1 year, I have reached the conclusion that there are relatively few employees who are truly confused about the application of the Hatch Act after they have taken the step of consulting with their agency lawyers, or with the Office of Special Counsel. The numbers of inquiries are quite low. I know there are individual cases of confusion, but that is true in every government law and regulation.

I think the issue gets to whether there is something that could be done that would change the Hatch Act that would not jeopardize the retention of an impartial bureaucracy. Unfortunately, since I would like to be able to accommodate such a strong interest on the part of some Members of Congress, I have had to conclude that there really is no room for significant change that would not have a very adverse effect. I regret that is the case, Mr. Chairman, but it is the conclusion I have reached.

Senator DECONCINI. It is your feeling that it is not broken at all, so why mess with it, that it is working just fine?

Mrs. HORNER. By and large, it is working so well that it would be not beneficial to jeopardize the impartiality of the system in order to make minor changes.

SUPERVISORY BURDEN OF HATCH ACT

Senator DECONCINI. Does it trouble you, Mrs. Horner, that Federal employees have testified that they have to spend a great deal of time, particularly supervisory employees, supervising to be sure that their employees are not violating the Hatch Act?

Because they don't want them to get in trouble and they don't want them to be in violation of the law, they spend their personal time and also their office-hour time checking on their employees, whether or not they are wearing their pin, or whether or not they are talking in favor of a candidate, or going to a meeting, or what-have-you?

Mrs. HORNER. Mr. Chairman, I don't know the specifics of this personnel practice, and I don't know how widespread it is, or how much time is entailed during an election period, but I do know that Federal supervisors do have a lot of obligations to protect the Merit System, and they do have to spend time in that area as well as in other areas such as our hiring processes.

Senator DECONCINI. We have taken testimony from particularly postal supervisors where one of their employees is married to the local sheriff in town, or has a long-term friendship the local judge, and what-have-you. They tell us that they go out of their way and spend a lot of time to be sure that those people are not violating the Hatch Act by doing anything political, other than they can, under the present Hatch Act, on off hours. They complain about that substantially interfering with their supervisory time to run the post office.

Are you familiar with any examples that have been brought to your attention like that?

Mrs. HORNER. No; no examples have been brought to my attention. Of course, there may be cases in which people engage in absurd extremes of attention. But I would also say that if it protects the political impartiality of the career service, then it is time well-spent, keeping in mind that there may be cases where supervisors go over the line.

SCHEDULES B AND C

Senator DECONCINI. Is it true that the number of schedule B and C jobs are greater in the last 4 years than they have been in the last 20 years?

Mrs. HORNER. I don't believe it is true that the schedule C jobs have.

Senator DECONCINI. What about the schedule B?

Mrs. HORNER. Yes, Mr. Chairman, it is true. As you know, we are in the process of developing examinations to replace the court——

Senator DECONCINI. Why is that?

Mrs. HORNER. In the late 1970's, suit was brought against the Government's general abilities test which had been in use for a fairly large number of occupations. Suit was brought on the grounds that the test had an adverse impact on minority applicants.

The Carter administration took steps toward a consent decree by which the Government agreed not to offer this test any more. Therefore, we have had to find another way to bring people into the Government. One way has been the creation of what are called job specific tests, and about 60 percent of the hiring for those occupations are now covered by job specific tests which have been developed or were already developed.

Senator DECONCINI. Are those still schedule B jobs?

Mrs. HORNER. No; they are not.

We are in the process of developing tests further. What has happened is that for so many of the remaining occupations for which we haven't developed tests there is only a very small number of people we would hire, maybe 40 or maybe 300, and the tests may cost millions of dollars and months or years of time to develop.

We are looking new for ways to consolidate some of those so that we can go to tests, but do so in a cost effective way.

Senator DECONCINI. It seems it has taken a long time to correct what went astray back 1n the late 1970's.

Mrs. HORNER. Mr. Chairman, this is a surprise to me, too, because one would question how hard and time consuming can it be to develop a test? But, in fact, in order to make it psychometrically acceptable to all the people who look at these issues, the tests have to be developed and then verified and tried out, and it does take time.

Senator DECONCINI. Would you supply to us the number of schedule C and schedule B jobs, both during the Carter and Reagan administrations for the record please?

Mrs. HORNER. Yes, Mr. Chairman.

Senator DECONCINI. It would be nice if it was on an annual basis to see whether or not it is going up or down or leveled off.

Mrs. HORNER. Yes.

[The information follows:]

The number of persons employed in schedule C jobs varies from day to day. The figures below reflect the average number of schedule C positions occupied each year during both the Carter and the Reagan administrations. These figures were compiled from quarterly reports based on information provided by the employing agencies.

Calendar year	*Average number of occupied positions*
Carter administration:	
1977	963
1978	1,426
1979	1,463
1980	1,518
Reagan administration:	
1981	1,108
1982	1,447
1983	1,654
1984	1,649
1985	1,671
1986	1,694
1987	1,687
1988	[1] 1,620

[1] Through March 31, 1988.

The authority for schedule B PAC positions (GS–5/7, professional and administrative career) was established in late 1982 after the court ordered abolition of the PACE examination. Appointment activity from the programs' inception through June 30, 1987, follows:

Calendar year	*Number of appointments*
1982	6
1983	2,059
1984	4,020
1985	4,114
1986	1,920
1987	[1] 1,218

[1] Through June 19, 1987.

Information on other schedule B appointments would require a special run of our central personnel data file [CPDF] and is not readily available. Most other appointments under this authority are co-op students or mentally restored individuals. The number of appointments in these categories has not changed between the two administrations.

INTERNAL REVENUE SERVICE AND CUSTOMS PERSONNEL PROBLEMS

Senator DECONCINI. On April 18, Mrs. Horner, Mr. Robert Tobias of the National Treasury Employees Union provided some rather shocking testimony regarding pay retention and recruitment problems that are flagging the Customs Service and the IRS.

Commissioner Gibbs of the IRS also testified earlier this year that the IRS does in fact suffer from an inability to attract and retain high caliber Federal workers because of pay and other compensation problems at the agency.

NTEU is specifically recommending special pay upgrades for revenue agents, revenue officers, estate and gift tax attorneys, tax auditors and tax examiners at the IRS. They are also supporting similar upgrades for inspectors and import specialists at Customs.

What are your views on these proposals and what studies, if any, have you conducted on the pay and retention problems at Customs or IRS?

Mrs. HORNER. Mr. Chairman, we have recently authorized special rates for IRS agents in New York. I am, as I think you may know, hospitable to requests for special rates in order to resolve some of these very difficult problems.

We have a pay system which is incapable of responding to large changes in the market, such as in the law enforcement, tax, and Customs areas that you mentioned. We need to be able to respond more quickly. We need to be able to respond with a broader range of pay. So, I am hospitable to requests from agencies for special rates.

In addition, I hope that our Civil Service Simplification Act will get increased attention in the Congress this year because of these problems. That would allow for quite dramatically expanded use of special pay.

You look at the FAA saying they ought to be independent because they can't hire flexibly, they can't have a flexible pay system. We hear this everywhere. NASA has had problems. I am working with DOD and NASA right now, with Members of Congress, to try to get some movement on that Civil Service Simplification Act, which is a large solution to all these specific problems.

SPECIAL RATES

Senator DECONCINI. Ms. Horner, have Customs or IRS made other applications for wage differentials?

Mrs. HORNER. No, sir; they have not yet, except for IRS data transcriber special rates we approved in two locations. These agencies are also covered under some clerical special rates for all agenecis.

Senator DECONCINI. The one that IRS has been granted in New York, does that apply only to the city?

Mrs. HORNER. Yes, sir; it does.

Senator DECONCINI. What do you do with an employee who lives in Connecticut, outside the city?

Mrs. HORNER. If he works in the city, it applies to him.

Senator DECONCINI. It applies if they work in the city even if they live outside the city?

Mrs. HORNER. Yes; it is not based on what it costs an employee to live. What it is based on is how much we need to pay that employee to keep that employee working there. It is based on where they work.

Senator DECONCINI. So that he doesn't move away.

Mrs. HORNER. That is right.

Senator DECONCINI. Can you tell me quickly, what is the process if Customs files today for the special pay situation for border inspectors or commercial collectors on the border of Arizona or Texas?

Can you give me just a thumbnail sketch, what is that procedure?

Mrs. HORNER. Customs would be asked by us to provide data to support the contention they were having trouble recruiting or keeping people because of pay competition from other employers. My staff would look at that data and make an assessment of its accuracy.

Senator DECONCINI. Customs asks you to supply the data or do they supply the data?

Mrs. HORNER. They supply the data.

Senator DECONCINI. They supply the data and then you review it.

Mrs. HORNER. We look at it and we make a judgment as to whether the data they have supplied us indicates a situation of great difficulty in recruiting or retaining. Then, we will increase pay for certain occupations in certain locations.

We have about $350 million a year worth of special pay rates now, covering about 115,000 employees.

Senator DECONCINI. Thank you. I was just going to ask that question. Thank you very much.

RETIREMENT PROCESSING

The Senator from Maryland.

Senator MIKULSKI. Thank you, Mr. Chairman.

Ms. Horner, I am going to ask some questions about the pension issues.

First, in the lump sum payments, myself and many of the other Senators have been getting complaints from newly retired Federal workers, who say their lump sum payments are not getting to them in a substantial period of time. My own case workers tell me—as you know, Maryland has a substantial Federal work force—it takes about 5 to 6 months for a new Federal retiree to get his or her first retirement check and that is a long period of time.

What are you doing to address that problem and do you have the resources and the automated systems and so on in order to meet these issues?

Mrs. HORNER. Yes, Senator; I would like to respond to that briefly, and then let our Associate Director for Retirement and Insurance to respond in detail.

Briefly, we had a very bad period of backlog development as a result of changes in the pension law, some of them unanticipated—the lump sum alternative annuity, for instance, which was further complicated as a result of the budget summit last December. What that required was for us to process each retiree's application not once, but twice, since we had to offer the option of a lump sum. This increased our workload for the year by 25 percent. What we had to do then was to hire and train new employees to handle the additional workload, and I believe we have now worked that backlog back down to where it was before all of these difficulties started.

AGENCY RETIREMENT DELAYS

I would like to make one other point and then turn it over to Jean Barber. It has become apparent that much of the problem for the backlog can be located elsewhere than OPM. I am not trying to pass the buck here, I would like to explain why that is. We now can give an employee an interim payment, an estimated check while we finish processing it, within 12 to 14 days from the time we get the retirement application.

Senator MIKULSKI. So, you could give a ballpark figure, say $30,000, but if it is $31,223, then you will issue a supplementary check?

Mrs. HORNER. That is right.

Senator MIKULSKI. Your estimate would tend to be probably a bit lower?

Mrs. HORNER. It is about 80 percent, because we don't want to have to take money away later.

Senator MIKULSKI. We are getting people who view it as their nest egg.

Mrs. HORNER. I think I am responding not just to the lump sum, but to the whole retiree pension.

The problem we are having is that agencies often are not giving us complete materials on their retirees or are not giving us materials as soon as they should, so that 1 month, 2 months may pass before the agency lets us know somebody has retired and, then, we start and 14 days later we should have an interim payment.

Senator MIKULSKI. You are only as good as the information you get from the agencies?

Mrs. HORNER. That is correct. I have just written a letter to agency heads, personally, saying you have to pay attention to getting these people's retirement applications in to us.

INDIVIDUAL AGENCY PERFORMANCE

Senator MIKULSKI. Ms. Horner, as you know, we always look not at an individual case but the pattern, because it is the pattern that is the stem of the issues.

Are there particular agencies that are more sloppy than others?

Mrs. HORNER. I am going to turn this question over to our Associate Director for Retirement and Insurance.

Senator MIKULSKI. And legal counsel. [Laughter.]

Ms. BARBER. The overall performance of the agencies here is very poor. Only in 45 percent of all retirement cases do we get the retirement application and supporting documentation within 30 days of the date of the employee's separation from service, so in all the rest at least 30 days go by before we even have a piece of paper, before we even know that the person has retired.

In 26 percent of the cases Governmentwide, 60 days go by before we know that there has been a retirement, before we receive in OPM any papers that we can begin to process. That is where we think the major problem is now.

Senator MIKULSKI. Are there particular agencies?

Ms. BARBER. Agencies vary. The overall performance, however, with very few exceptions, has been poor.

Senator MIKULSKI. You mean that they are all poor?

Ms. BARBER. Most of them are poor.

Mrs. HORNER. Senator, I consider this OPM's responsibility. It is my responsibility to make sure the agencies do this job right as part of our Governmentwide management responsibility, and I am getting on to this problem now and have just communicated with agencies with the notion that we are going to have to start talking specific agencies, if we don't see dramatically improved performance shortly.

NEED FOR CONGRESSIONAL INTERVENTION?

Senator MIKULSKI. Mrs. Horner, do you then foresee tools of prodding that the Congress should institute?

Mrs. HORNER. At this time, I would say no.

Senator MIKULSKI. Would you alert us, then? Not for us to do your job for you, but we know that there are those that are offering some rather serious recommendations. Congressman Ray of Georgia has introduced a bill that would pay interest on lump sum payments which are delayed more than 90 days. I know what he is trying to do is get people off of their duff and responding.

Mrs. HORNER. His motive is correct, but, that would only add an additional processing task that could slow down our work even more.

I would like to try to get the agencies to do their duty by the retirees by simply being firm and calling it to their attention and assisting them with how they can do the job better and then take a look after awhile.

Senator MIKULSKI. I would really suggest most strongly that your team brief the Federal employee organizations as to why this is falling behind.

Quite frankly, I think there are times when you have had prickly relationships, this an area where they could be jawboning their own agencies to get them online to be giving you the information.

Mrs. HORNER. That is a very good suggestion.

Senator MIKULSKI. I wasn't aware that this was where the problem was. I thought that you essentially were backed up in the funnel at OPM.

Mrs. HORNER. No.

Senator MIKULSKI. You are ready to go.

Mrs. HORNER. Yes, Senator. That is a good idea and we will do that.

Senator MIKULSKI. I think it would be terrific, as a matter of fact, it would surprise a lot of people.

FEDERAL EMPLOYEES' RETIREMENT SYSTEM TRANSFERS

I am going to go to my favorite briefer, Mike Causey. You have to know there is a direct proportion of the calls Senator Sarbanes and I receive to the Causey columns. Causey causes casework. [Laughter.]

But, in today's "Federal Diary," again it is confusion over FERS. We know we have been through FERS. We have talked about the information. We talked about that last year, but what seems to be the confusion is when people call to get information from OPM and Social Security—and I have been talking to Dr. Bowen about this yesterday—according to Causey now, many workers are getting misleading or flat out wrong answers from personnel and retirement officers regarding their option to switch to the new Federal Employees' Retirement System.

Would you talk about that because, again, information goes a long way in smoothing out wrinkles. In Maryland, after they call you, they call us and then we are involved in systemic issues.

Mrs. HORNER. Senator, 3 days ago, we received concurrence from Social Security that we could offer this belated opportunity to join the new system and, therefore, we have only had 3 days in which to communicate to agency personnel officers what the determination is. Frankly, to get that information out through the whole Federal system can't be done overnight, so we need a little more time to get that out.

That is why there is confusion, because the Causey column alerts people that there has been a change more quickly than we can alert all the personnel officers in the Government to the substance of that change.

Senator MIKULSKI. I would like for them to mandate Causey reading as the must do before the beginning of every day.

But, already we are getting calls. I am like the early morning alert system here. I feel like I am the national technical means for verification of your personnel practices.

Mrs. HORNER. I am sorry that this burden is placed on you. I recognize that it is difficult.

We have sent a letter to the Hill on this, and it took us several months to get Social Security to agree.

Senator MIKULSKI. Do you feel that there is good communication between you and Social Security?

Mrs. HORNER. Generally, yes, there is, Senator. It is just that any of these technical issues, anything having to do with taxes and Social Security, has to be considered by so many people that it is a time consuming process.

Senator MIKULSKI. We have a great deal of pride that Social Security is located in Maryland and really essentially a wink and a drive away from OPM, and we had hoped that Social Security would be working with you now, because there is such an interlocking nature. One, it is a large employer that you have supervision over or jurisdiction over; and second, the policies really need to be integrated.

DRUG TESTING

But, I would like to move on now to another issue that is related to personnel, that is, the issue of the drug policy that we worked so hard on. Do you feel that it is moving along briskly?

Secretary Bowen has issued the new guidelines. Have you had a chance to review them, critique them?

Mrs. HORNER. Yes, Senator. I want to thank you for your assistance in this area. It has been invaluable from the very beginning. Today or Monday, the Congress will receive from HHS, I understand—Dr. Bowen can verify this later—the HHS guidelines and after that will be the time for the 60-day notices and then the 30-day notices. So, I assume that testing would begin somewhere around mid-August or early September.

Senator MIKULSKI. In conversations with the Federal employee unions, who have just had a chance recently to look at it as well, I have asked them to critique it, because in order for the drug policy to work, the employees have to have confidence in both the laboratory testing and the methodology used for sample collection. We have already been over some of that. They are going to have some comments that they are forwarding to me, which I would like for you to be sure to see as well as Dr. Bowen.

Two items that already come to mind—and I will be talking to Dr. Bowen about cost, et cetera—there is one called sample splitting, which means if you take a sample, one-half goes to the laboratory, another is put in a safeguard situation, so if you get a positive an employee can go right back for a second opinion from the same sample. As you know, these laboratories are not always precise, so that is one issue that will be raised.

Then the other is the so-called collection technician. They want to be sure that those people are trained and that there is a uniformity in their ability to collect these samples, because the possibility of false results lie in: one, poor collection; and two, laboratories, who just by volume or whatever can make a mistake.

So, those will be issues that they are going to be raising with you and with Secretary Bowen, and so I just want to draw that to your attention, because there has to be confidence in the system as well as their other concerns about employee harassment and you are familiar with that.

If we could get a good system in place for the collection, testing and verification of the testing, I think, that would build employee confidence and take out some of the wrinkles.

Mrs. HORNER. I look forward to looking at those issues, Senator.

Senator MIKULSKI. We will be sure to get them to you.

WORK FORCE 2000

Mr. Chairman, I have just one other question. It goes to work force readiness, which you have raised, in terms of the Treasury employees. You raised the issues of IRS and Customs. I am, of course, interested in the Secret Service pay issue. Rather than me going into those individual questions, we will look forward to Mrs. Horner's response to yours, but I have a few others related to the work force.

Mrs. Horner, as you know, last year we asked you to undertake a study of work force needs and day care. Let me first preface this by saying that we are going to have very serious work force needs in the year 2000. We are already seeing that now with the NASA's and the NOAA's and the Secret Service. I really hate to do this on a piecemeal basis, and I think you do too.

The demographics tell us that we are going to go from a labor supply to a labor shortage, so we are already creating, if you will, a shrinking work force for demands. We will be one of the largest employers in the United States, even if our work force needs shrink.

Therefore, we are going to be in almost bidding wars with the private sector. There will be no way, I think, that we will be able to pay—for example, in high tech or law enforcement—those salaries that the private sector will be able to pay, so they will be looking also at benefit packages.

DAY CARE

I, therefore, feel that day care, because of the number of women in the work force, will be a very significant issue in our ability to recruit and our ability to retain workers. That is where I am heading with a lot of this.

Could you tell us where you are in your work in developing in OPM a day-care policy for the Federal Government?

Last year, I asked you to undertake a work force day care study. I asked you to look at some agencies in Maryland, not only because they were in Maryland, but because they represented different kinds of agencies: the National Security Agency, because it is a security agency, it operates 24 hours a day; Social Security, which employs a tremendous number of women; NASA, because it is high tech and it has everything from the clerical work force to the Ph.D. in solar physics; and I felt that by picking those agencies it gave you a bit of a sample of the kinds of agencies that would exist around the country.

Could you tell us where we are and where you are heading with this?

Mrs. HORNER. Yes.

Senator MIKULSKI. Do you agree with this analysis?

Mrs. HORNER. Yes; I do. I think you have accurately assessed what is going to befall us if we do not take some strong measures to make working for the Federal Government generally more attractive than it has been and we are taking measures on many fronts, and I will respond by focusing on the day-care issue with you right now.

As you know, we are going to be providing the Congress with a report in June, which will assess the work force needs of the Federal Government in the year 2000 or up until the year 2000 and, as part of that, at your request, we are asking those who are doing the study to assess the day-care needs of the Federal Government.

With that in mind, we have written to and received responses from agencies with major operations in Maryland, specifically the National Security Agency, the Social Security Administration, the Naval Academy, and the National Institutes of Health.

We have received responses and have transmitted those responses to the people who are doing the study for us in the expectation that they will use them and include them as part of their assessment of needs in Maryland as a typical State, for instance.

DAY CARE AND ELDER CARE REFERRAL

What we are doing already, I think, is a foretaste of more of what needs to be done at OPM specifically, and if what we are doing now at OPM works well, we will be recommending it for Governmentwide use.

OPM is supporting an onsite day care center with GSA and Interior, but we are doing something else which may have broader implications Governmentwide. We have recently hired a contractor to offer advice and referral, in ways I will specify in a moment, nationwide, for not just day care, but elder care.

Women, and it does fall to women historically, spend on average 17 years in taking care of children and, on average, 18 years in taking care of dependent elderly. So, this is something that we need to pay attention to also.

What our contractor is providing, for any OPM employee nationwide, is a referral service to specific vacancies for day care or elder care nearby that employee's home or place of work. In addition, they are conducting brown bag lunches, seminars with experts in how to go about assessing day care and elder care options for quality and broader problems of stress related to these kinds of care.

In other words, we need to undertake some major attention to this issue Governmentwide. If this works well, at OPM over the next several years, as I expect it will, there will be referral services for both these problems, in addition to our ongoing efforts of putting into place onsite day care where the employees want it.

Senator MIKULSKI. I think it is terrific that you are also taking a look at elder care, because it is an emerging issue. We know that some of the more innovative private sector companies are looking at it, IBM being one of them.

Mrs. HORNER. I visited with them yesterday.

Senator MIKULSKI. It is really taking leadership on this particular issue. I don't care if it is for children or the elderly, information and referral is absolutely essential and it something I have been an advocate of particularly for that which is licensed.

Second, we know that we have a problem with the preschooler which could be met onsite or offsite, and then there is the after school and summer school. We have to be developing a national policy, but what we also need from OPM is advice on how we are going to do both scheduling innovations and also benefit innovations.

With scheduling, as you know, flex-time, part-time, and so on are techniques that can be used. My own sister, who is a Federal employee, is a DOD flex-time worker, which enables her to be home when my nieces and nephews get home after school. She is an early riser and, as a mother, a late worker.

As you know, women put in those two shifts, one in the marketplace and one at home, so scheduling is very important. If we could have a clear policy—we know DOD is probably one of the more innovative in this area—it would be helpful.

Second, the benefit package—you are not going to be able to provide onsite day care, onsite day care only meets a specific need for a specific age group, although I am very keen about onsite day care—the question is, are we going to get into a cafeteria plan, will there be vouchers, any of these other kinds of things, the same thing that IBM is looking at.

Because we are such a significant employer, I think we really have to be preparing where we are going to go and what it is going to cost, because what is going to happen now is we are getting into these bidding wars on salaries and that is why, I think, if we had some type of benefit package, we might be able to hold on to a different type of employee.

CAFETERIA BENEFITS

Mrs. HORNER. I have recently testified on the House side on the subject of cafeteria benefits. We are at a very preliminary stage in assessing that, because of the tax implications, and because we are looking at major changes in our health insurance program and we have just finished establishing a new retirement program, but for the long-term we have to decide how we are going to adust all of these things and make Federal work attractive to people.

We need to do whatever we can afford to do to make Federal work attractive.

Senator MIKULSKI. Let me just wrap up.

So you see where I am thinking in terms of, one, the tools to do day care, and it is up to other committees to work on the availability and affordability of the supply; then, second, the work force scheduling which helps; three, the benefits. But while we are talking about that in terms of the benefits, one of the things that came out in terms of IRS was that it is very hard for IRS to hire young lawyers and to keep them. This was part of my work force focus with Commissioner Gibbs earlier this year.

Now there is a tremendous number of women who have their law degrees who just don't want the rat race of the blue chip, gold letterhead law firm, and they think that 20 hours a day is not something they want to do, but they would be there to work for Internal Revenue and would love it.

Those wonderful women who are now being trained in accounting, when I was a young woman in college, social work, nursing, and teaching were the three options.

Mrs. HORNER. I remember very clearly.

Senator MIKULSKI. I have my degree in social work, as you can kind of see, it is spilling out over here.

Mrs. HORNER. Mine was teaching, Senator.

Senator MIKULSKI. Now they are in accounting.

This takes us to the flex-time at IRS, the flex-time at Customs. I am not saying that women are going to be a major bulk of the Federal work force, but I will bet that if we came up with a good dependent care policy and benefit package, a lot of the work force needs that we will have in the future will be met by women in the white collar work force, and our country will be very ably served.

I talked to former Federal Reserve Chairman Paul Volcker about this, and his Commission, and I would hope that you would work with Chairman Volcker. They were into EEOC and affirmative action. I said: You can have all of the affirmative action you want, but if there is not the infrastructure to employ women in the Federal work force, it does them no good.

Now the doors are open. Now we want to make sure that when we sit down, we are not going to get a call that your kid has a broken leg, and so on.

Mrs. HORNER. Yes.

Senator MIKULSKI. Mr. Chairman, I could go on about this.

I would really like you, Mrs. Horner, as your contractors develop these studies, to be looking at this. When you get your studies, I would look forward to be meeting with you for a briefing on the topics so we can keep the momentum going, and not just doing it at a hearing level.

Mrs. HORNER. I look forward to that.

Senator MIKULSKI. Thank you, Mr. Chairman.

Senator DECONCINI. Thank you, Senator Mikulski.

Let me ask a couple of quick questions, I don't think that they are going to take too long, just your tremendous intellectual ability, Ms. Horner.

OFFICE OF PERSONNEL MANAGEMENT BUDGET INCREASE

I notice that you are getting a 5.5 increase over last year, above the bipartisan budget summit, where that calls for a 2-percent increase. How did you get through OMB with a 2½ times increase, and what was envisioned?

Mrs. HORNER. Senator, I have been around in Government, I used to work there.

Senator DECONCINI. Did you used to work at OMB?

Mrs. HORNER. Yes, I did, Senator.

Senator DECONCINI. That is the answer. That is good enough. [Laughter.]

Mrs. HORNER. OMB can be very understanding, I think, of the needs of a Federal agency.

Senator DECONCINI. When? [Laughter.]

You also requested an increase of $3.5 million over last year for the so-called Career Entry Program, and that represents an increase of almost 10 percent. Your justification, on page 6, briefly explains the increase, but it is still a pretty large percentage increase in these lean budget years.

What would be the effect on your operations if we were to bring your career entry request more into line with your overall increase of 5.5?

Mrs. HORNER. Senator, I think that it would have a very bad effect not only on my operation, but on the staffing of the Federal Government as a whole. The time is here when we have to pay serious attention to recruiting good people, or we are going to go into a death spiral of incompetence. We have to do it, and we have to do it right now. If we wait another 2 years, it is going to be a very difficult problem. It is already a difficult problem to handle.

We need, as OPM is now trying to reinstitute our College Relations Program to get good young people to know what the opportunities are in the Federal Government. We need to put equipment into the field to grade their tests really quickly so that they are not gone to IBM while we dilly-dally around with our procedures.

We need to get into the late 20th century in terms of automation; we need to do aggressive recruiting, and this money is for that purpose.

Senator DECONCINI. You make a very convincing argument.

Ms. Horner, thank you very much.

I understand that your father, David McNealy, is here today.

Mrs. HORNER. Yes; he is, Senator.

Senator DECONCINI. We want to just recognize him.

Mr. McNealy, you have seen your daugher, I am sure, in operation many, many times, and she serves your family name well and you, and also our Government.

Mrs. HORNER. Thank you very much, Mr. Chairman.

PREPARED STATEMENT OF SENATOR D'AMATO

Senator DECONCINI. Senator D'Amato was unable to attend the hearing today, but he submitted a statement regarding the OPM which we will make a part of the record at this point.

[The statement follows:]

STATEMENT OF SENATOR ALFONSE D'AMATO

Mr. Chairman, I welcome to this morning's hearing Ms. Constance Horner, Director of the Office of Personnel Management. I have reviewed Ms. Horner's testimony on the fiscal year 1989 budget request for OPM, and I look forward to discussing it with her. I also look forward to hearing the testimony of this morning's public witnesses.

The fiscal year 1989 budget request for OPM totals approximately $7.3 billion in current budget authority. This request contains $107.5 million for salaries and expenses, $2.4 billion for Government annuitant health benefits, and $4.9 billion for the civil service retirement fund. I am interested in hearing Ms. Horner's comments on the effect this request would have on overall benefit levels to Federal annuitants.

According to Ms. Horner's prepared statement, OPM continues to support a number of legislative initiatives to modify the Federal personnel system and the Federal employee pay and benefits program. Specifically, OPM is seeking the enactment of legislation to replace the agency's 65-year-old classification system with a more modern management system, as well as legislation to provide long-term health care to Federal employees.

The OPM budget also contains a number of new initiatives for fiscal year 1989. First, OPM proposes to replace the current system of within-grade pay increases with a performance-based pay progression. In addition, OPM would require the Postal Service and the District of Columbia Government to pay fully for the cost of their annuitants' retirement benefit COLA's.

The issues presented in OPM's fiscal year 1989 budget are of vital interest to this committee, and will be explored fully this morning. I look forward to participating in this review.

Thank you, Mr. Chairman.

LETTER FROM SENATOR MARK O. HATFIELD

[CLERK'S NOTE.—Subsequent to the hearing a letter was received from Senator Hatfield regarding the Combined Federal Campaign which will be inserted in the record at this point.

[The information follows:]

LETTER FROM SENATOR MARK O. HATFIELD

May 3, 1988

Mr. Chairman:

I am pleased to note that for the first time in several years, the Committee does not need to include a provision for the Combined Federal Campaign. For the 1986 and the 1987 campaigns, the Committee included provisions requiring the Office of Personnel Management to continue using the Regulations used for the successful campaign in 1984 and 1985. Last year, with the cooperation of OPM and other major federations and organizations, the Committee was able to include permanent legislation for the CFC. The catalyst for this legislation was litigation brought by the advocacy groups OPM had attempted to exclude, and the permanent legislation specifically requires that henceforth the plaintiffs would be nationally eligible.

On February 17, 1988, OPM issued proposed regulations to implement this legislation, and several members of the Committee submitted lengthy and detailed comments. (The letter follows.) The Committee has now been assured by OPM that these and other problems identified during the comment period will be resolved in the final regulations. I am encouraged that the effort to reform and improve the CFC continues to be successful, and look forward to the 1990 campaign, when the necessary problem of distributing undesignated funds will be readjusted to achieve greater equity. Again, I congratulate OPM for their excellent work on this issue.

I ask unanimous consent that this letter and attachment be included as testimony before the Subcommittee on Treasury, Postal Service, and General Government on April 29, 1988.

Sincerely,

Mark O. Hatfield
United States Senator

March 18, 1988

The Honorable Constance Horner
Director
Office of Personnel Management
1900 E Street, N.W.
Washington, D.C. 20415

Dear Ms. Horner:

We are writing to share our comments and concerns with you regarding OPM's proposed regulations on the Combined Federal Campaign.

First let us say that we appreciated the cooperative spirit with which you and your staff approached the legislative process leading to the passage of the 1988 CFC reform legislation. Section 618 of Public Law 100-202.

We also appreciate your promptness in issuing the proposed regulations for the 1988 CFC reform legislation, and your continued willingness to improve the overall operation of the CFC. Nevertheless, we have several serious concerns about the proposed regulations. As now written, we believe they violate the legislation by changing eligibility criteria that we intended to remain unchanged, and by proposing new criteria in several area that could well lead to arbitrary and capricious eligibility decisions.

We fear these regulations, if promulgated without substantial revision, could exclude many deserving charities, both local and national, from the Combined Federal Campaign. The disruption and controversy this would cause would jeopardize the overall fairness and success of the Campaign. Our legislative efforts over the past three years were intended to bring stability, fairness and certainty to the CFC eligibility process; OPM's proposed regulations would, in many instances, result in just the opposite.

The 1988 CFC reform legislation makes clear that -- other than the new requirements relating to litigation, public policy advocacy or attempts to influence legislation -- "[a]ny requirements for eligibility...shall...remain the same as the criteria in the 1984 regulations, except as otherwise provided in this section." (Sec. 618(b)(1)(B).)

As you are aware, this permanent legislation built upon previous legislation governing the 1986 and 1987 Campaigns. All three statutes are based on the recognition that the 1984 regulations were fair and open, that they provided sufficiently broad eligibility requirements, and that they fostered an increasingly successful CFC. In sum, for eligibility requirements the 1984 regulations are to remain the cornerstone of the CFC.

We are concerned by provisions in the proposed regulations relating to fundraising and administrative costs, the public support test, the local presence test, compensation of the Board of Directors, the process of substitution of Principal Combined Fund Organizations, national federation certification, local federation certification, and the due process provisions for the appeals process. As now written these provisions are inconsistent with the 1984 regulations and the statute. We discuss these and other concerns below.

I. ELIGIBILITY PROVISIONS

Fundraising and Administrative Costs

The new definition of fundraising costs to include "all expenses of mail that included request for financial support; all expenses associated with membership drives; all expenses associated with newspapers, magazines, radio, television, or other advertising" is both contrary to our legislative intent and in direct conflict with the "generally accepted accounting principles" ("GAAP") established by the American Institute of Certified Public Accountants previously required by OPM. This definition would lump in legitimate programmatic expenses for public education, membership communications and the like with direct fundraising expenses, making it extremely difficult for most broad-based charities to meet the 25% ceiling requirement. The existing definition of fundraising and administrative costs in "GAAP" should be retained. On the other hand, to the extent this is meant as a public accountability requirement rather than an eligibility requirement, OPM would, of course, have flexibility to make changes from the 1984 regulations.

Public Support Requirement

Requiring charities to demonstrate both that they receive 50% or more of their revenues from sources other than the federal government and 20% or more of their contributions from the general public is a clear change from the 1984 regulations and raises another eligibility hurdle for voluntary charities. This should remain an "either/or" test rather than an "and" test.

Local Presence Test

The new definition of substantial presence as "a staffed facility...open at least 20 hours a week" is a clear change from the 1984 regulations, and arbitrarily excludes statewide or regional charities that may have no local offices but nonetheless are providing services, benefits, assistance or program activities affecting local residents. This provision should be expanded to include the alternative criteria used in the 1984 regulations for local presence.

Board of Directors Compensation

The requirement that all members of the Board of Directors must serve without compensation "except for a paid staff head," is a change from the 1984 regulations. While non-staff board members should serve without compensation, board members, including those who are paid staff members, should be allowed to receive compensation for their non-board services.

II. OTHER CONCERNS

Principal Combined Fund Organization

The provision allowing the OPM Director to "at any time," substitute a different PCFO for local campaign, without any complaint arising from an interested party and without having to "show cause" as to why such replacement should be made is inconsistent with the 1988 CFC legislation. The statute provides that a federation or agency may be barred from serving as PCFO only where OPM has made "a written decision issued after notice and opportunity to submit written comments" that the PCFO has "violated the regulations."

The provision describing the PCFO's "specific responsibilities" is not as expansive as the 1988 legislation because it fails to include the responsibilities explicitly set forth in the legislation. The legislation mandates that federated groups are to be afforded --

> "(i) adequate opportunity to consult with the PCFO for the area involved before any plans are made final relating to the design or conduct of such campaign (including plans pertaining to any materials to be printed as part of the campaign);
>
> (ii) adequate opportunity to participate in campaign events and other related activities; and
>
> (iii) timely access to all reports, budgets, audits, and other records in the possession of, or under the control of, the PCFO for the areas involved,..."

The proposed regulations should be expanded to include these statutory requirements. This will help foster competition in the same way as your new requirement to allow combinations of federations and agencies to serve as PCFO.

The provision providing for a "PCFO fee" also could be interpreted as being inconsistent with statute. The Conference Report explicitly states that "A fee in excess of costs to the PCFO would constitute an indirect distribution of undesignate[d] contribution[s] and is not allowable."

National Federation Certification

The new provision that "a single instance of false certification at either the local or national level may constitute grounds for decertification of a national federation" is unduly harsh and clearly inconsistent with the legislative intent reflected in the Conference Report: "The Conferees intend this [decertification] authority to be used only for the most serious violations, and only after allowing a federation a reasonable opportunity to cure non-compliance." This provision should be significantly modified to reflect our clear intent.

The requirement that national federations allow OPM "complete access to it and its members' books and records" goes beyond the requirements of the 1988 CFC legislation. Under the 1988 legislation, voluntary agencies, including federations, must "comply with a reasonable request by OPM to furnish it with information relating to such agency's campaign accounting and auditing practice." This legislation also allows OPM to "require a voluntary agency to provide information to support any certification" made by a federation. While we presume this is not OPM's intent, the new language raises the specter of OPM conducting invasive audits of agency books, and non-CFC "records", with no due process requirements or other limitations. This provision should be changed to better reflect the spirit of our agreement.

The proposed regulations also fail to include a central feature of the 1984 regulations -- the principle of self-certification. The 1984 regulations explicitly require OPM and local decisionmakers to "be guided by the principle of self-certification and...[to] accord a presumption of validity to the written representations of voluntary agencies and federated groups" that they have satisfied the eligibility requirements. This principle is essential to an efficient campaign and must be retained.

Local Federation Certification

The provision allowing the OPM director to "decertify any local federation at any time when such decertification is, in the Director's judgment, consistent with the best interests of the campaign" is inconsistent with the 1988 statute. The statute explicitly provides that OPM "may withdraw federation status from any federated group [local or national]...if it is determined, on the record after opportunity for a hearing, that the federated group has not complied with the regulatory requirements."

We are concerned that the new requirement that a local federation must possess "the necessary financial and organizational maturity" is vague and will lead to arbitrary and capricious eligibility decisions. We also do not believe that the legislation specified that the local federations are required to have the same number of members as national federations

(15). We urge you to reconsider this provision to reflect the different circumstances of local federations.

Due Process for Eligibility Appeals

The proposal to cut the local eligibility appeals schedule from 10 days to 5 days is misguided and should be reversed. We would hope that the previous requirement in the 1984 regulations that the Local Federal Coordinating Committees provide "actual or constructive notice of the decision of which reconsideration [was] sought" would be retained in the new regulations. Additionally there is no requirement for OPM to provide "actual or constructive notice" of denial to charities seeking national eligibility, as previously required by the 1984 regulations. This situation could result in local and national charities not even becoming aware of adverse eligibility decisions before the appeals period had expired. The notice provisions of the 1984 regulations should be retained for both local and national eligibility processes. Indeed, the notice provisions are so important to a fair campaign that we urge you to strengthen these requirements even beyond those of the 1984 regulations.

Vague Standards

We are troubled by the vague language that has crept into several of the provisions. For example, the new requirement that health and welfare benefits provided by national organizations must be "substantive" is vague. In contrast, the new statute is clear and explicit: it allows eligibility for any organization that provides "services, benefits, or assistance, or otherwise conduct[s] program activities" affecting human health and welfare. The Conference Report is also clear:

> The Conferees also intend that any other eligibility for any criteria shall not limit the acceptable means of affecting human health and welfare to direct services; more general charitable services, benefits, assistance, and program activities also can have an equally beneficial effect on human health and welfare.

We would urge this provision be changed to directly incorporate the statutory language.

Remittance of Contributions

The proposed regulations also are ambiguous regarding the time period during which contributions that are made to an agency are to be remitted initially to a federation. The regulations should clarify that the contributions will continue to be remitted to the federation throughout the completion of any campaign (including the remittance period) during which the agency was at any time a member of the federation. To avoid arbitrary decisionmaking at the PCFO level, the regulations also should clarify that the agreement to remit a member agency's contributions to the federation should be deemed to occur when an agency joins the federation.

Joint Federation Comments

In addition to these comments, we have reviewed the comments jointly prepared by the four federations (United Way, International Services Agencies, National Voluntary Health Agencies, and National Services Agencies). These federations have among them a tremendous amount of experience with the CFC. We are sure that OPM will find these joint comments invaluable, and will give them their appropriate weight.

* * * * *

We hope you find our comments useful as you prepare final regulations for the Combined Federal Campaign. Again, we must underscore the joint objectives of fairness and Campaign success which led to Congress' successive legislative mandates to use the 1984 regulations for the 1986 CFC, for the 1987 CFC, and finally for the successful compromise between Congress and the Administration.

In closing, we again wish to extend our appreciation to you and your staff for the cooperative spirit you have shown throughout the legislative process and now in the regulatory

process. We look forward to final regulations that ensure that federal employees continue to have the greatest freedom to choose which charities they wish to support. We are confident that the freedom of federal employees to choose will, in turn, lead to the continued growth and success of the Combined Federal Campaign.

Dennis DeConcini

Steny Hoyer

Barbara A. Mikulski

Pat Schroeder

ADDITIONAL COMMITTFE QUESTIONS

Senator DECONCINI. I have some questions, Ms. Horner from Senator Domenici, which we will submit to you right now, and the balance of our questions also.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

1. Q. Your March 16th report on consulting services, management and professional services, and special studies, shows that your budget for Management and Professional Services will increase more than six-fold in fiscal 1989---from $90,000 in fiscal 1988 to $575,000 in fiscal 1989. Special Studies funding would virtually double next year.

What would be the effect on your operations if we were to hold you to last year's level for both Management and Professional Services, and Special Studies? (We would save more than $540,000.)

A. All of the management and professional services cited in the March 16 report are funded within our Trust Fund limitation, and the increase is for critical actuarial support studies, most of which are for the Federal Employees' Retirement System (FERS).

The special studies are funded through our Revolving Fund account, and the increase will fund an expanded screening and selection process for the Presidential Management Intern Program, consistent with plans to expand the program.

2. Q. Ms. Horner, as your March 31st letter to me acknowledged, there has been confusion over the proposed pay raise for the Uniformed Division of the Secret Service and the U.S. Park Police. In February, your agency granted special salary rates for both of these agencies following requests from both agencies and a declaration by both agencies that they had the money to cover the cost of the new pay raise. The language contained in the Continuing Resolution last year did not mandate that these agencies get pay raises--it merely allowed you to make new comparisons that could lead to your approval of special pay for these law enforcement agencies.

Now, Secret Service is saying that they need a 13% across-the-board raise, rather than the staggered, 12-8-6-4% raise granted to the Uniformed Division in February. I am informed that a new request for the larger, across-the-board raise is forthcoming from Treasury.

Can you outline what happened with Secret Service and the Park Service, and tell us what the prospects are for the revised pay raise for Secret Service Uniformed Division?

A. For some months prior to Congressional action on the fiscal year 1988 continuing appropriations measure, OPM had been working with Treasury Department officials on the issue of higher pay for the Secret Service Uniformed Division. After enactment of that measure, OPM received the official special rate submission from Treasury which requested graduated adjustments ranging from 12 percent to 4 percent. Treasury's official request showed staffing problems only at the officer level; there were no vacancies reported at the other levels and no mention of a negative impact on career progression that would result from the graduated increases proposed.

Recognizing the historical linkage between pay for the Uniformed Division and the Park Police, OPM notified Interior of the receipt of Treasury's proposal. Interior requested that the Park Police be included under any schedule approved for the Secret Service. The special rates approved for both agencies are precisely those requested in Treasury's official submission.

The graduated rate adjustment approach reflects standard practice in the special rates program--we adjust rates to meet documented staffing problems at each grade, with appropriate adjustments for pay alignment purposes. Automatically granting the highest increase needed for any one grade level across-the-board to all levels, regardless of recruitment and retention data, would be inconsistent with the statute governing the special rate authority, and would be extremely expensive.

We believe the approved special salary rates will have a positive impact on Secret Service's staffing problems. If, however, Treasury provides staffing data identifying additional problems, we would be happy to review the new submission and, if warranted, develop appropriate solutions.

3. Q. Senator Inouye has requested an appropriation of $1 million in fiscal 1989 to allow OPM to begin implementing the Federal employee health promotion and disease prevention projects authorized under P.L. 99-251. Both the State of Hawaii and the State of Arizona have shown a particularly keen interest in this program.

What is your view on these projects and what would you be able to do with an additional $1 million in fiscal 1989?

A. We believe that projects such as these, which are already being tried at some Federal agencies, hold the potential for producing information and programs to improve the health and well-being of Federal employees.

OPM plans to draw on the experience of agencies such as Army and IRS, which are conducting health/fitness demonstration projects similar to those envisioned under P.L. 99-251, to collect necessary information and develop Government-wide policies for improving employee health and fitness. Given the current budget deficit and the fact that these projects currently underway can achieve the objectives of P.L. 99-251, we do not believe the additional funding is needed or justifiable. If appropriated, however, we estimate that $1 million would support two health demonstration projects of 1,500-2,000 employees or one larger project of about 3,000 employees.

4. Q. Ms. Horner, as you know, we spent many painful hours together with the Attorney General, Senator Domenici, Congressman Hoyer, and others, trying to craft up a set of ground rules to govern the President's Federal drug testing program. We succeeded and I believe that all of us, including the Attorney General, produced a good product that protected employee rights and allowed random testing to go forward.

But I am informed that, after reaching agreement on the ground rules, certain elements within the Justice Department now want to somehow exempt the so-called 'second tier' agencies from the full certification process. The language in the drug testing portion of the Supplemental Appropriation Act of 1987 is clear to this Senator that second tier agencies are to go through the same certification process as the first tier agencies. If nothing else, the intent is clear and the Attorney General signed off on the package.

What is your view on this matter?

A. The interpretation of legislative language is an inexact art at best. It is my understanding that such interpretations usually reside with the Department of Justice and are made in reliance upon generally recognized rules of statutory construction. I also understand that the Justice Department is considering whether the language in the Supplemental Appropriations Act of 1987 concerning the Tier II agencies requires that they be certified by the Department of Health and Human Services. As these determinations are more properly within the purview of the Justice Department, I cannot substitute my judgment for that of the Attorney General on this issue.

5. Q. Ms. Horner, since the bill, S. 552 was introduced in February of last year, your agency has been in a frenzy over the proposed funding language in the bill. Section 11(a) of the bill says that OPM is directed to make available "UP TO $3,000,000" over the next two fiscal years (1988 and 1989) to cover the expenses required for the Commission on Compensation Equity. Under the bill, the Commission sets the level of expenses it deems required for its operations and OPM decides, within the $3 million authorized, what they get. That's the way I read it. I read it to say that you don't have to spend all $3 million. That's why the legislation says "up to" $3 million.

Why are you so concerned about the funding mechanism built into this legislation?

A. As you know, the Administration is strongly opposed in principle to S. 552 or any other "comparable worth" legislation. The language you mention is an additional concern with S. 552. We believe the language in S. 552, if enacted, would have to be interpreted as a Congressional directive to OPM to make available to the Federal Employees Compensation Equity Commission whatever amount that Commission finds necessary to perform its statutory mandate, provided that amount does not exceed $3,000,000.

For FY 88, OPM's programmatic and financial plans are established. If we had to fund Federal Employee Compensation Equity Commission costs in FY 88, we would have to revise these plans. If the full $3 million were to be taken from our FY 88 appropriations, furloughs of approximately 2,400 employees for 10 to 11 days would be necessary.

If the bill were enacted into law and the $3 million were taken out of OPM's funding for FY 89, we would be unable to meet critical Government-wide personnel needs. The specific consequences for OPM would be in our recruiting and investigations programs.

In our recruiting program, we would be unable to meet the 'quiet crisis' in the civil service by interesting our best citizens in working for the U.S. Government. Specifically, we could not print our newly designed recruiting materials, hire staff to tell college students how to apply for jobs, or provide timely service in our examining program, especially for clerical hires. In addition, special plans to speed the hiring of air traffic controllers and Internal Revenue Service employees through automating the process would have to be deferred. Plans to improve the provision of job information to the public would have to be cancelled, and service to the public would continue to be available in only a few places for a few hours a week.

In the investigations program, OPM would be unable to reduce suitability determination backlogs or to complete all anticipated FY 89 suitability determinations, given workload levels. OPM would be unable to eliminate backlogs of NAC/NACI's or to complete the majority of those expected from agencies in FY 89. In addition, OPM could not complete many suitability investigations or obtain a higher level of evidence in these cases as required by MSPB. As a consequence, some unsuitable persons would be retained as employees. Finally, OPM would be unable to fully carry out its security appraisal and assistance role, complete its schedule of planned security appraisals of other agencies, or assist agencies in setting up and operating their security and suitability programs.

6. Q. Last year, Congress appropriated $2 million more than you requested for administrative expenses for the retirement and insurance programs. It was our hope that these additional funds would allow your agency to provide an increased level of retirement and insurance services to Federal employees, in light of the new retirement program.

What specific improvements can you point to in the current fiscal year as a result of having additional money to use for these services?

A. The additional trust funds provided in FY 88 are being used to accomplish the following objectives:

Improve informational services:

- Additional staff for the Retirement Information Office.
- A new telephone system featuring caller-selected subject matter messages.
- Mailing of a brochure to annuitants introducing the capabilities of the new system.
- Mailing of health benefits premium change notices to annuitants.
- Establishment of a retirement liaison function to assist agency retirement counselors.

Reduce backlog levels: Overtime was used in selected areas of claims processing to help stem the growth of backlogs and processing delays that resulted from implementing the alternative annuity provisions mandated by P.L. 99-335. Although the 30-day period provided for alternative annuity elections has created a permanent lag in required processing time, we have been able to reduce backlogs and maintain claims balances at our previous levels.

Improve insurance services: Staff assigned to administer health benefits contracts and process disputed health benefits claims was augmented to keep pace with growth in the FEHB program.

We have hired, or are in the process of hiring, the personnel required to undertake the above-mentioned initiatives. The initial training of these new staff members, combined with the impact of recently passed legislation (i.e., the 60/40 payment delay of alternative annuity lump-sum distributions), has made it difficult to improve service levels during the first half of 1988. I am hopeful that with pending claims balances now at more manageable levels we will be able to make substantial gains in improving services during the second half of the year. Although I believe this is achievable, I am concerned about the growing number of agencies seeking early retirement authority and the impact this may have on our claims workload.

I am also pursuing another means of improving service to our beneficiary population. Attached is a letter I have recently sent to all agency and Department heads soliciting their support in improving the quality and timeliness of agency submissions of retirement applications to OPM. Improvement in this area should significantly reduce the number of unnecessary delays in payments to newly retired Federal employees.

MAY 4 1988

MEMORANDUM FOR HEADS OF DEPARTMENTS AND AGENCIES

FROM: CONSTANCE HORNER
DIRECTOR

Constance Horner

SUBJECT: Submission of Retirement Records to OPM

Many Federal employees who file for retirement benefits are having to endure unacceptably long periods between the cessation of pay at their employing agencies or departments and their entrance onto OPM's retirement rolls. The cause of such delays may be found either in the agencies' tardiness in forwarding the necessary records to OPM or in OPM's claims adjudication system. (Sometimes both are at fault.) The purpose of this letter is to communicate the actions we have taken to improve our performance in timely processing of claims and to urge you to make similar improvements in the development and submission of the necessary supporting documentation.

Recent legislative changes have significantly affected OPM's adjudication processes. Because of the Alternative Annuity provisions of P.L. 99-335, OPM must now calculate the benefit amount both with and without the alternative annuity, allow the retiree time to elect the type of annuity he wants to receive, and then complete adjudication of the case. Thus, our processing time for the vast majority of cases has been permanently lengthened.

In order to prevent any financial hardship that might occur during the time required for adjudication, we have adopted a policy of making interim, estimated payments to all retirees who are clearly entitled to benefits. These payments generally equal 80 to 90 percent of the final, monthly annuity. We have also hired additional staff and authorized extensive overtime to reduce our overall processing times to the minimum possible. Interim payments are currently authorized in 95 percent of retirement cases within 12 to 14 calendar days after we receive the application and accompanying documentation from the employee's agency. Check processing by Treasury and delivery by the Postal Service usually require another 8 to 10 days for a total of 20 to 24 days for the receipt of the first retirement check.

However, while we have made great progress in expediting the adjudication of retirement cases, we cannot even begin our work until the agency's part of the process is completed. Indeed, we are not even aware that the employee has retired. Agencies are responsible for developing and forwarding to OPM the records necessary to initiate the retirement claim and support an adjudicative decision. Thus, the timeliness and quality of agency submissions is critical to the amount of time it takes for a retiree to receive his or her first annuity payment. It is this part of the process that must now be improved if unacceptably long delays are to be avoided.

Federal Personnel Manual guidance states that the employee's individual retirement records should be closed out and sent to OPM no later than five days after the date of the last pay check. However, we generally do not consider submission of records to be untimely if they are received within 30 days of the employee's separation. Our most recent statistics on the timeliness of agency submissions to OPM show that Government-wide, only 45 percent of retirement applications are received within 30 days of the employee's separation, 29 percent are received within 31 to 60 days, and 26 percent are received over 60 days after separation. Thus, even if a retiree could be assured of receipt of the first retirement check no later than 24 days after OPM begins its work, the total time from date of separation to the receipt of that check may be unacceptable if the agency submission of the records is untimely. Because of agency slowness in filing, based on these statistics, 26 percent of the people would be getting their first check more than 84 days after separation from service. This is unacceptable.

In addition to timeliness, the quality of the documentation submitted by the agency directly affects the length of time it takes OPM to authorize interim retirement payments or adjudicate the claim. If retirement data or documents are missing, our staff may need to contact the agency to develop the necessary information before authorizing payment of the first retirement check or taking final action to process the claim. While improvements have been made, only 50 to 52 percent of retirement claims that OPM now receives are complete.

For the past year, we have been providing Directors of Personnel with quarterly reports outlining the Government-wide and individual agency statistics on the timeliness of record submissions. We have also communicated our concerns to the Interagency Advisory Group Committee on Retirement, which is comprised of the headquarters retirement counselors for each agency. While a few agencies have clearly improved their performance, it has not been enough to affect the Government-wide timeliness of submissions or to reduce the significant numbers of retirees adversely affected by delays in submissions.

Given the nature of retirement processing, both your personnel and payroll offices have significant roles to play in submitting retirement records to OPM. Therefore, if you have not already done so, I strongly recommend that you review your internal retirement processing activities with a goal of improving the timeliness and quality of agency submissions. We think an attainable standard is 90 to 100 percent submissions of retirement claims within 30 days from the date of separation. This would allow the vast majority of retirees to receive retirement payments within five to six weeks after separation instead of the three to four months that too many people are now experiencing.

We will continue to provide your Directors of Personnel with statistics on the timeliness of Government-wide and your individual agency submissions. We fully expect to see significant improvements. I am sure you agree that Federal employees have every right to expect, and even to demand, that their transition into retirement not be marred by economic hardships caused by indifference or inattention on the part of the Government agencies they have served so well.

7. Q. You are asking for an increase of $1 million over last year to increase funds to ensure fitness and suitability of Federal employees and to operate a security appraisal and assistance program.

Could you explain these increases and tell us what would happen if this increase were denied or cut back?

A. By law, OPM has one year from the date of appointment to remove an employee found to be unsuitable for continued Federal employment. Lack of sufficient funding in this area could result in the employment and continued retention of unsuitable individuals (including drug addicts/abusers, felons, etc.).

If increased funding is not obtained, delays would also be encountered in processing suitability objections to applicants made by agencies, thereby slowing down or halting agency recruitment requests. Suitability decisions required by examining offices would also be backlogged, which would delay their placing applicants' names on registers.

OPM would have to backlog 60,000 NAC/NACI's in addition to the 60,000 backlogged during FY 88. This would result in more than a six-month backlog by the end of the year. OPM would be able to complete fewer than two-thirds of the anticipated, required suitability determinations and would have an eight-month backlog (5,000 determinations) by the end of FY 89.

Under Executive order, OPM is also assigned basic security and suitability responsibilities for the majority of the Federal workforce. These responsibilities include conducting the Government-wide security appraisal program for the purpose of determining deficiencies in Department and agency security programs and ensuring that employees are given fair and equitable treatment under agencies' security and suitability programs.

As has been seen in recent espionage cases, the intensity and scope of agencies' programs have a definite effect on the national security. Lack of funding for this function would render OPM unable to carry out its security appraisal role to ensure that only suitable employees gain and continue Federal employment.

Investigators would not be able to conduct evaluations of field activities. This would hinder OPM's ability to ascertain the effectiveness of agencies' security programs and direct necessary corrections to bring them into compliance with Government-wide standards. OPM would be unable to schedule or complete its planned FY 89 security appraisal agenda of other agencies. Thirty-six planned appraisals would not be conducted. Several agencies have specifically requested that appraisals be conducted to assist them in making improvements in their programs. OPM would have to cut its security and suitability assistance program to other agencies at least in half. Some agencies requiring assistance in setting up or changing their programs would not receive necessary help.

In addition, if increased funding is not obtained, OPM would not be able to investigate all merit system fraud and other suitability cases received. In addition, OPM would not be able to comply with MSPB requirements to obtain a higher standard of evidence for suitability cases. OPM has lost recent appeals of suitability findings on procedural grounds. The higher standard of evidence is required if our findings are to be sustained on appeal.

Finally, OPM would have a six-month backlog (over 2,000) of suitability cases and a six-month backlog (200) of merit system cases by the end of FY 89. Merit system abuse cases requiring immediate attention would be completed, but others would be backlogged.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

1. Q. For fiscal year 1988, the Congress increased OPM's trust fund transfer authority by $2 million above the level of the President's original request in order to provide additional resources for improving retirement and insurance service levels. You are requesting a $9.3 million increase above that level for fiscal year 1989.

What has been done to improve service levels this fiscal year and how will they be improved with your fiscal year 1989 request?

What claims' processing backlog problems and other service delays are currently being encountered and what actions are being taken to address these?

A. The additional trust funds provided in FY 88 are being used to accomplish the following objectives:

Improve informational services:

- Additional staff for the Retirement Information Office.
- A new telephone system featuring caller-selected subject matter messages.
- Mailing of a brochure to annuitants introducing the capabilities of the new system.
- Establishment of a retirement liaison function to assist agency retirement counselors.

Reduce backlog levels: Overtime was used in selected areas of claims processing to help stem the growth of backlogs and processing delays that resulted from implementing the alternative annuity provisions mandated by P.L. 99-335. Although the 30-day period provided for alternative annuity elections has created a permanent lag in required processing time, we have been able to reduce backlogs and maintain claims balances at our previous levels.

Improve insurance service: Staff assigned to administer health benefits contracts and process disputed health benefits claims was augmented to keep pace with growth in the FEHB program.

We have hired, or are in the process of hiring, the personnel required to undertake the above-mentioned initiatives. The initial training of these new staff members, combined with the impact of recently passed legislation (i.e., the 60/40 payment delay of alternative annuity lump-sum distributions), has made it difficult to improve service levels during the first half of 1988. I am hopeful that with pending claims balances now at more manageable levels we will be able to make substantial gains in improving services during the second half of the year. Although I believe this is achievable, I am concerned about the growing number of agencies seeking early retirement authority and the impact this may have on our claims workload.

I am also pursuing another means of improving service to our beneficiary population. Attached is a letter I have recently sent to all agency and Department heads soliciting their support in improving the quality and timeliness of agency submissions of retirement applications to OPM. Improvement in this area should significantly reduce the number of unnecessary delays in payments to newly retired Federal employees.

Please note that the $9.3 million increase in FY 89 consists of $7 million for contractor support to develop the FERS automated recordkeeping and processing system. This funding represents the first installment of an estimated $30 million that will be expended during the next 4 to 5 years to complete this critical project. The balance of the increase ($2.3 million) is to fund the cost of the January 1988 pay raise ($0.9 million), increases in the cost of space and long distance telephone services ($0.8 million), inflation, and the share of agency-wide administrative support.

2. Q. OPM recently approved special salary rates for the Secret Service Uniformed Division and the U.S. Park Police. When the Secretary of the Treasury testified before this Subcommittee, he indicated that special salary rates had recently been approved for IRS agents working in New York. I am aware of a number of agencies experiencing serious recruitment and retention problems, a major factor being that the salaries are just not competitive with those being offered by the private sector.

To what extent are pay disparities now being addressed through the special pay rate authority?

How many requests for special pay rates are you receiving from the agencies each year? Are most of them being granted?

To what extent is special rate authority being used to address government employee recruitment and retention problems when we instead should be looking at basic pay reform?

A. The special salary rate program has experienced enormous growth over the past few years. The following table shows the five-year growth in the program to date.

Five-Year Growth of Special Salary Rates

Year	Number of Authorized Positions	Number of On Board Employees	Percent of GS White-Collar Federal Employees	Program Cost (millions)
1984	30,500	27,700	2	$101.9
1985	46,000	39,000	2.6	187.1
1986	64,000	57,000	4.3	218.3
1987	111,000	96,000	6.5	345.5
1988	140,000	115,000	7.8	357.1

Since fiscal year 1985, the number of special salary rate requests has increased significantly as follows:

	REQUESTS RECEIVED	REQUESTS APPROVED
FY 85/86	25	22
FY 87	60	52
FY 88	43	22*

*Another 21 requests are under review at this time.

Some of the unapproved cases were later resubmitted and approved.

In the long run, Federal pay problems need to be addressed through comprehensive reform which is sensitive to the appropriate labor markets, not through an ever-increasing use of the special rate authority. The Office of Personnel Management has submitted to Congress a proposed "Civil Service Simplification Act" that, if passed, will provide much greater flexibility to establish pay in relation to market pressure than is now possible. This legislation would establish a market-sensitive, performance-oriented, and administratively simplified approach to paying Federal workers.

3. Q. Last year's further continuing appropriations Act extends and expands the leave-sharing program for federal employees through the end of fiscal year 1988.

What is the status of the regulations for this program?

How many agencies will be participating in the program in fiscal year 1988?

A. We forwarded interim regulations to establish a voluntary annual leave transfer program for fiscal year 1988 to OMB for review on January 29, 1988--about a month after the enactment of Public Law 100-202. Following approval by OMB on March 4, the interim regulations were published in the Federal Register on March 8, 1988.

In response to the enactment of Public Law 100-284 on April 7, 1988, OPM revised the interim regulations to eliminate the prohibition on donating annual leave to higher-graded employees and establish a prohibition on donating annual leave to the leave donor's immediate supervisor. This change was published in the Federal Register on April 26, 1988.

The interim regulations require each Federal agency that employs individuals covered by the annual and sick leave system established by chapter 63 of title 5, United States Code, to establish procedures to administer the FY 88 voluntary leave transfer program. Actual participation in the program will depend upon the needs of employees in each agency. At this point, about a dozen agencies have already implemented the FY 88 program, and we anticipate that most others will implement the program by June 1, 1988.

4. Q. Mrs. Horner, you have written to me regarding the Administration's objections to a bill now on the Senate calendar, S. 552, the "Federal Employee Compensation Equity Study Commission Act of 1987." More specifically, you have registered your objection to a provision of that bill which would draw up to $3 million from OPM's fiscal year 1988 and 1989 appropriations to fund a "comparable worth" study.

If a substantial portion of this $3 million were to be taken from your fiscal year 1988 appropriations, you indicate that furloughs of OPM employees would be necessary. How many employees do you estimate you would need to furlough?

What would be the impact on OPM's activities if this bill were enacted into law and the $3 million was taken out of the funding level you have requested for fiscal year 1989?

A. We believe the language in S. 552, if enacted, would have to be interpreted as a Congressional directive to OPM to make available to the Federal Employees Compensation Equity Commission whatever amount that Commission finds necessary to perform its statutory mandate, provided that amount does not exceed $3,000,000.

For FY 88 OPM's programmatic and financial plans are established. If we had to fund Federal Employee Compensation Equity Commission costs in FY 88, we would have to revise these plans. If the full $3 million were to be taken from our FY 88 appropriations, furloughs of approximately 2,400 employees for 10 to 11 days would be necessary.

If the bill were enacted into law and the $3 million were taken out of OPM's funding for FY 89, we would have to forgo meeting critical Government-wide personnel needs. The specific consequences for OPM would be in our recruiting and investigations programs.

In our recruiting program we would be unable to meet the 'quiet crisis' in the civil service by interesting our best citizens in working for the U.S. Government. Specifically we could not print our newly designed recruiting materials, hire staff to tell college students how to apply for jobs, or provide timely service in our examining program, especially for clerical hires. In addition, special plans to speed the hiring of air traffic controllers and Internal Revenue Service employees through automating the process would have to be deferred. Plans to improve provision of job information to the public would have to be cancelled, and service to the public would continue to be available in only a few places for a few hours a week.

In the investigations program, OPM would be unable to reduce suitability determination backlogs and complete FY 89 suitability determinations, given anticipated workload levels. OPM would be unable to eliminate backlogs of NAC/NACI's and complete the majority of those expected from agencies in FY 89. In addition, OPM could not complete many suitability investigations or obtain a higher level of evidence in these cases as required by MSPB. As a consequence, some unsuitable persons would be retained as employees. Finally, OPM would be unable to fully carry out its security appraisal and assistance role, complete its schedule of planned security appraisals of other agencies, and assist agencies in setting up and operating their security and suitability programs.

5. Q. The Merit Systems Protection Board (MSPB) conducts special studies of civil service and other merit systems, and undertakes an annual review of significant actions of the OPM. For fiscal year 1988, MSPB is focusing on such areas as the quality of applicants for federal jobs, federal employee experience, and performance management and recognition.

What is your assessment of the value of these MSPB studies? Are they used by OPM? Do they in any way duplicate work done by your agency or elsewhere?

A. MSPB has a statutory requirement to conduct special studies from time to time concerning the civil service and other merit systems in the executive branch. While these studies sometimes cover matters addressed by OPM or other organizations such as GAO, we believe they can contribute to an overall understanding of how the personnel system is operating in Government. We have at times used information in MSPB reports in assessing program performance and considering possible regulatory changes.

For example, our Career Entry Group has been involved in three MSPB special studies recently--a survey of temporary employment in agencies, a review of our new reduction-in-force (RIF) regulations, and a study of selection procedures for entry-level professional and administrative jobs. The reports provided have been professionally done and in several cases have been helpful to us in identifying the need for new or updated policies and instructions.

6. Q. The Advisory Committee on Federal Pay has three responsibilities, i.e., to submit an independent annual pay report to the President; to perform a labor relations-mediation role between the President's agent and the Federal Employees Pay Council; and to recommend improvements in federal compensation policies and practices.

In your dual capacity as the director of the OPM and as the President's pay agent (along with the director of the OMB and the Secretary of Labor), what is your assessment of the role of the Advisory Committee on Federal Pay in determining federal compensation policy?

A. The recommendations of the Advisory Committee on Federal Pay are required by law as part of an overall scheme to bring differing views to bear on Federal pay issues. While we don't always agree with these views, we believe advisory opinions can contribute to informed decision making.

7. Q. You are requesting a fiscal year 1989 appropriations level of $107.5 million for salaries and expenses, and a $77.0 million transfer from the trust funds to cover the costs of administering the retirement and insurance programs.

Are these the fiscal year 1989 amounts you originally submitted to the OMB? If not, what was your original fiscal year 1989 request and how did it differ from that included in the President's budget?

A. While they are very close, they are not exactly the same. Our original fiscal year 1989 salaries and expenses request was for $108,831,000. The major changes between this figure and our request in the President's budget resulted from working with OMB to refine estimates for the cost of the January 1988 pay raise, FERS benefits, inflation and program-related costs. We also modified our requests to update our complete financial and administrative systems to focus on our most critical need, a new accounting system. In addition, OMB added $1 million for OPM to study the direction of future Federal recruiting and employment initiatives.

Our original trust fund request was for $102,075,000, and again the same refinement of estimates took place. Our initial request included $30 million in multi-year resources to cover the estimated cost of automating the new Federal Employees Retirement System. OMB determined that in 1989 we should only seek $7 million to produce a general design and lay out the requirements for the automated system.

8. Q. Your fiscal year 1989 request for salaries and expenses is $5.6 million above the fiscal year 1988 appropriations level. You are also requesting a $9.3 million increase in the limitation on the availability of trust fund monies for administrative expenses. What would be the impact on your activities if you were denied these requested funding increases and had to live with a fiscal year 1989 funding level frozen at the fiscal year 1988 appropriations levels?

A. If OPM were denied the salaries and expenses increase of $5.6 million over fiscal year 1988 we would be unable to fund many of our most urgent priorities. The specific consequences of not receiving these funds are described in our answers to several other questions. In our recruiting and examining program, we would be unable to carry out recruiting activities, print recruiting materials, provide job information or provide timely service in our examining program. In the investigations program, we would be unable to reduce suitability determination backlogs, carry out our security appraisal and assistance role or investigate all merit system fraud and obtain a higher level of evidence as required by MSPB. We would also be unable to fund studies for Civil Service 2000. We would be unable to monitor and strengthen employee assistance programs, handle the increased workload of the Office of Government Ethics, and maintain the necessary administrative staff for the expansion of the President's Commission on Executive Exchange to scientists and engineers.

The increase of $9.3 million in trust fund limitation includes $7 million for contractor support to develop the FERS automated recordkeeping and processing system. It represents the initial investment on a project that will take 4-5 years to complete and will cost an estimated $30 million. If funding were frozen at the FY 88 level, the FERS project would have to be delayed and FERS claims would have to be processed as they are currently--using jury-rigged CSRS applications consuming up to three times the level of effort devoted to equivalent CSRS work. This, in turn, would adversely affect our ability to maintain service levels in all critical workload areas.

The remaining $2.3 million reflects increases in the cost of the January 1988 pay raise ($0.9 million), increases in the cost of space and long distance telephone services ($0.8 million), inflation, and the share of agency-wide administrative support. If funding were frozen at the FY 88 level, since these increases are for required items over which we have no control, reductions would have to be taken in OPM programs, necessitating reduced staff and loss of service in the retirement programs.

9. Q. The fiscal year 1989 request for salaries and expenses include savings of $158,000 and 32 FTE's as a result of "studies or other action taken in response to OMB circular A-76." Would you please be more specific as to which activities are being shifted to the private sector; what is meant by "other action in response to OMB circular A-76"; and how you arrived at the estimated savings in federal funding and positions as a result of using private sector resources for these activities.

I note that your fiscal year 1989 budget for salaries and expenses through reimbursements also includes decreases of $325,000 and 70 FTE's due to greater reliance on the use of the private sector. Would you also be more specific here as to the activities to be performed by the private sector and how you arrived at the associated decrease in funds and positions for fiscal year 1989.

A. The activities funded through our salaries and expenses appropriations for which reductions are being proposed by OMB, based on greater use of private sector resources, include the following areas: ADP services; administrative services; the central personnel data file; and qualifications and classification standards. The reference to other action in response to OMB Circular A-76 refers to the direct contracting out of functions performed in-house. The FTE savings were determined by OMB, based on the size of OPM's A-76 inventory, and the dollar savings were computed based on OMB's assumption of saving $5,000 per FTE worth of work contracted out.

Similarly, reimbursements to salaries and expenses activities include: the trust fund retirement and insurance and ADP services; and a share of agency-wide administrative and ADP services. Likewise, the associated decreases in funds and positions for FY 89 have been determined by OMB, based on the size of OPM's inventory and OMB's assumptions of saving $5,000 per FTE worth of work contracted out.

10. Q. The budget justification (on page 7) indicates that $789,000 of the amount originally estimated for FERS (Federal Employees Retirement System) costs in fiscal year 1988 was not needed and that these funds were used instead to meet the costs of the January 1988 pay raise and a one-time non-recurring space renovation cost requirement.

What portion of the FERS savings was used to fund pay raise costs and what portion was used to fund space renovations? What is the one-time space renovation cost requirement you identify?

A. FY 88 FERS savings provided $900,000 toward the cost of the January 1988 pay raise and $508,000 toward the costs of one-time space renovations.

The Office of Personnel Management has established an active space management program designed to improve office space and productivity while maintaining our total space requirements. Based on recent experiences, we have determined that well-designed space using modern technologies can substantially increase productivity and reduce total space costs. Techniques we employ include modernizing existing space, making health and safety improvements, consolidating offices when practicable, and encouraging the use of furniture systems when funding is available.

To meet the objectives of our office space management program, we created a 1988 OPM Space Plan, which is in full compliance with the spirit and letter of GSA temporary regulation D-73, designed to: 1) Generate efficiencies through reduced space utilization rates, 2) Improve service to the public by modernizing the Washington Area Job Information Center; 3) Increase productivity through the use of furniture systems in the retirement and insurance programs; and 4) Improve overall program management and effectiveness through co-locating offices with common functions.

11. Q. The fiscal year 1989 budget request includes an increase of $1 million to prepare for civil service 2000. The budget justification indicates that a study will be done first to establish the issues to be addressed. Is the $1 million you request the cost of this study?

A. No, we have already contracted with the Hudson Institute for a Civil Service 2000 study to be completed in FY 88.

The $1 million requested to prepare for Civil Service 2000 will support a number of additional studies and will fund some changes in our recruitment and examining system to support agency needs as we move toward the year 2000. For example, we plan a study to determine the feasibility of offering Federal employees a smorgasbord of benefits, to better meet the individual employee's needs. We also want to experiment with a program designed to identify high school drop-outs with potential for successful entry into clerical jobs, and to develop model training programs that will prepare new workers for jobs in areas where we are not competitive with the private sector for skilled workers. We also plan an in-depth review of our pay policies to determine changes that are needed to insure the ability of Federal agencies to compete in a very difficult labor market. In addition, we plan to better utilize available technology to provide up-to-date job information to applicants seeking Federal jobs.

12. Q. The fiscal year 1989 request includes an increase of $150,000 and 4 FTE's to primarily enable OPM field offices to monitor and strengthen agency Employee Assistance Programs (EAP's) as part of the President's drug-free workplace plan.

What is the total amount included in your fiscal year 1989 budget request for this effort?

What is your current assessment of agency Employee Assistance Programs? How do they need to be strengthened?

A. Total OPM resources (central office and regions) to be devoted to Employee Assistance Programs in FY 89 are expected to be $410,000 and 10 FTE's. (These figures include the $150,000 and 4 FTE's for field activities mentioned above).

Employee Assistance Programs have become a major force in promoting good organizational health and improved job performance in Federal establishments. Employees who are able to overcome problems that affect their work are more productive, less likely to be sick or absent, less likely to be involved in work-related accidents, less likely to be the subjects of disciplinary action, and more likely to maintain employment with the organization.

The utilization of EAP's by Federal employees continues to increase, especially in seeking assistance for substance abuse problems. However, I feel these programs can be utilized to an even greater extent and, specifically, that EAP's contributions to a drug-free workplace can be strengthened by:

- o Enhancing programs for informing employees of the services that EAP's offer to persons with substance abuse problems;
- o Increasing the skills of managers in dealing with troubled employees, including how to make referrals of these employees to EAP's;
- o Developing evaluation methods and tools for assessing the effectiveness of EAP's in meeting established objectives;
- o Improving the coverage of EAP's to ensure that employees in remote areas and in small installations have access to counseling and referral services when needed.

I am also convinced that Employee Assistance Programs can help agencies address some of the more compelling current problems in the Federal workforce. Included among these are the concerns of employees about AIDS in the workplace. In this respect, Employee Assistance Programs can provide a confidential forum for employees to discuss their concerns about AIDS, receive counseling, and obtain information about services available to them.

Another area where Employee Assistance Programs can help is to provide counseling and assistance to employees suffering from the pressures of dependent care responsibilities. Being responsible for ensuring that proper care is provided to dependent children and older family members can result in pressures that affect job performance. Employee Assistance Programs, with their counseling and referral capabilities, are in a good position to help employees cope with these added pressures.

13. Q. The fiscal year 1989 request includes an increase of $188,000 and 5 FTE's for the Office of Government Ethics to handle its increase in workload more effectively. What are the Office's projected workload increases which necessitate the five additional positions requested?

A. The additional positions OGE has requested will allow them to carry out more fully their oversight responsibility of providing overall direction of ethics in Government. There are several factors that necessitate the additional positions. They are as follows:

o OGE must now review and approve regulations for each agency that comply with regulations issued in FY 88 on the new confidential financial disclosure system. They are also developing a film on the preparation and review of confidential disclosure reports.

o To accommodate this system, OGE is expanding regional and Washington area training to include the new confidential financial disclosure program and possible statutory changes to 18 U.S.C. §207 on post-employment restrictions.

o During this Presidential transition year, OGE must review and certify more than 1000 Presidential appointee public financial disclosure reports, along with the required written opinions and ethics agreements.

o Meeting the rising tempo of day-to-day operations, such as developing standard regulations and approving agency rules; reviewing financial disclosure reports and monitoring qualified blind trusts; providing oral and written interpretive guidance; conducting audits and monitoring compliance; approving designations and exemptions under 18 U.S.C. §207 on post-employment restrictions; and responding to public and congressional inquiries.

14. Q. The fiscal year 1989 budget request includes an increase of $400,000 and 6 FTE's to expand the President's Commission on Executive Exchange Program to Scientists and Engineers. You mention that the exchange program was expanded in 1987 by Executive Order 12591 to assist agencies in creating exchange programs for scientists and engineers.

How many agencies now have such a program in place and how successful have they been in this exchange effort?

How will the scientists/engineers exchange effort be expanded with the additional funds and positions requested for fiscal year 1989?

A. The Exchange Program for Scientists and Engineers is so new that information is not yet available on either the number of agencies that will be operating such a program or the success of their efforts. We are hopeful that the success in the Executive Exchange Program will carry over into this new initiative.

Funds requested for the next fiscal year will enable the Commission to maintain an administrative staff for the Executive Exchange Program and to establish a separate administrative staff for the development of agency programs for exchange of scientists and engineers.

15. Q. Your fiscal year 1989 request includes an increase of $7 million for contractor support to develop the requirements of the automated system to support the operation of the new Federal Employees Retirement System. You indicate that this represents an initial investment for this 4- to 5-year project. What is the projected total cost of the project?

A. We estimate that the total cost of the project will be approximately $30 million.

Attachment

NONDEPARTMENTAL WITNESSES

STATEMENT OF RICHARD H. JUDY, DIRECTOR, MIAMI INTERNATIONAL AIRPORT; SECOND VICE CHAIRMAN, AIRPORT OPERATORS COUNCIL INTERNATIONAL

Senator DECONCINI. Next we will hear from 12 public witnesses representing a number of important organization and interests.

Ladies and gentlemen, it is an important part of our hearings to allow outside witnesses to come forward to present their views on programs and issues facing this subcommittee. That is what we are going to do now, but in order to allow each of you proper time, I would ask each one of you to summarize your written statement in 5 minutes or less. Your full written statement will be inserted in the record for consideration by the committee.

We are trying to let all of you go by no later than noon. As a matter of fact, we have 1 hour in order to complete these hearings.

We are going to start this morning with Richard Judy, director of Miami International Airport, and second vice chairman of the Airport Operations Council International.

Mr. JUDY. Thank you, Mr. Chairman.

We have filed an extensive written statement.

Senator DECONCINI. It will appear in the record.

Mr. JUDY. My comments will focus on the critical major issues that we hope this committee will address. We have broken them down into seven areas and we will live within our 5 minutes.

The issues are: The passenger and cargo inspection procedures and staffing; passenger clearance time standards; interagency cooperation; cargo; cargo automation; centralized cargo examination; and user fees.

Every year, airports, airlines, and the representatives of the Nation's cargo industry appear before this and, of course, other committees, to plead for more Customs inspectors to process the increasing volumes of arriving passengers and cargo. It is plea that reflects our position between a rock and a hard spot. It is from our perspective the safest solution, not the best.

Although due to past funding shortfalls and diversions, and the current surge in the volume of international arriving passengers and cargo, there is need for substantially increased numbers of Customs inspectors.

Our real needs are for dramatically improved passenger and cargo inspection procedures, and greater inspection staffing flexibility. This would allow more efficient, effective, and speedy inspection of international arriving passengers and cargo. But improved inspection procedures and staffing methods are much less tangible than numbers of

Customs inspectors and, therefore, are much less easy to ask for, to quantify, to receive and to maintain under our legislative processes.

The airport industry and the communities we represent worry, and not without reason, that if we ask for what we really want, we may only get one-half the bargain—a few more inspectors and today's old and inefficient inspection procedures—leaving us with steadily eroding levels of inspection service.

Every year, therefore, we play it safe. We ask you only for the additional Customs inspectors needed to clear increasing volumes of passengers and cargo, using the same archaic and inefficient inspection procedures. In so doing, we perpetuate the use of inefficient inspection procedures, making it, of course, more difficult and risky each successive year to ask for what we really want. We have put ourselves is what is known as the "prisoner's dilemma."

This year, we are breaking this senseless mold, and focusing on those things in this area that we really want from the Congress and the Customs Service.

First, we want the development and adoption of new techniques for the inspection of passengers and cargo; and, second, a greater degree of Customs staffing flexibility to better match the numbers of Customs inspectors already on duty to the volumes of arriving passengers and cargo—by peak hour, by day, by season, and by point of entry.

The development and adoption of more efficient procedures cannot come quickly enough. The United States lags far behind in this regard when compared to most Western European nations that employ the red/green system. Further, we are aware of no information to suggest that more efficient inspection procedures, in terms of passenger and cargo facilitation, are any less effective in terms of enforcement. Indeed, during trials of a new high risk/low risk inspection procedure at an AOCI member airport last summer, greater facilitation came hand-in-hand with greater enforcement.

We are happy to report that Commissioner von Raab and his management team have made significant strides toward the modernization of inspection procedures. We urge the committee to support those most important efforts. Nonetheless, today, much of our inspection capability is assigned inefficiently.

When using only annual averages to plan staffing requirements, it becomes impossible to match the number of inspectors on duty to the volume of arriving passengers and cargo, not only by airport, by season, by day of the week, but most unfortunately by peak hour period. For an example, an overall growth rate of 10 percent in passengers and cargo at an airport is frequently the result of a 100-percent increase in passenger and cargo arrivals during a few hours.

The passenger and cargo arrivals during the peak hours have paid for and should be given the same high level of service provided during off-peak hours. The solutions to these problems involve, for the most part, the application of the guiding managerial philosophy of service first.

One solution continually suggested, which we think is most unwise, is that carriers adjust schedules to flatten the arrival peaks. This proposed solution implies that passengers and cargo flight schedules are somehow accidental and can be changed without cost, when in reality nothing could be further from the truth.

Schedules are the result of careful and complex planning, aimed at providing the most convenient schedule for the consumer, and the maximization of the product use of the aircraft. The Customs Service is just that, a service organization, it should strive to adapt to meet the needs of the market, not vice versa, as some would suggest. In any event, neither airports nor Customs has the power under international law to schedule the world's airline fleet.

Clearance time standard—thanks to the efforts of this committee and others, the intent of Congress has been clearly expressed that there should be a maximum clearance time standard of 45 minutes for any passenger on any international arriving flight on any day of the year, and during the peak traffic periods of that day.

We cannot overemphasize the importance of this clearance time standard. For the first time the flying public, Congress, and interested parties like airports can hold Customs accountable for the level of service it provides arriving passengers.

As a service guarantee and a tool of congressional oversight, the clearance time standard enabled us to start asking for the largely intangible improvements we really want, without the fear of worsening service levels. Ultimately, we believe strongly that the clearance time standard will be of great benefit to Customs as a goal with which to defend management decisions and as a track record to defend performance in years to come.

Interagency cooperation—U.S. Customs is not the only Federal agency involved in the processing of passengers and cargo. The Immigration and Naturalization Service, the Department of Agriculture, and Public Health, in addition to Customs, are critical to the overall clearance process.

The different purposes and procedures of these separate agencies has meant that oversight is fragmented, cooperation is modest, and the standardization of procedures is rare. This causes inefficiency and delay in passenger and cargo processing. What we are asking is for some informal get-together of all the committees involved to really look at the whole heart of the inspection process, rather than just its parts.

PREPARED STATEMENT

As to cargo, we go on in our testimony pointing out that we must establish standards in cargo of a 15-minute guarantee of response time. We go into cargo automation. We discuss the McKinsey report, emphasizing the fact that cargo automation must be put in place for all of our air, sea, and land movements, and it must be done in such a way that we don't get into the situation we got into with airline CRT's because the result there was a monopolistic tendency of a few. We must put a system in that all those involved in the cargo industry have a fair and equal access to the concept of automation in our government process.

[The statement follows:]

STATEMENT OF RICHARD H. JUDY

My name is Richard Judy and I am the Director of Aviation at Miami International Airport. I am here today on behalf of the Airport Operators Council International which is the association of governmental bodies that own and operate the principal airports served by scheduled airlines in the United States and around the world. AOCI member airports enplane more than 90% of total domestic and virtually all U.S. international scheduled passenger and cargo traffic.

We are here today to ask that Congress provide the necessary resources to increase the inspection capabilities of U.S. Customs, and to improve inspection procedures for greater efficiency in clearing international arriving passengers and cargo.

In fiscal year 1989, we request funding and Congressional oversight to:

1) Increase the number of Customs inspectors assigned to the clearance of international arriving passengers and cargo at our nation's airports, encourage the adoption of more flexible inspector staffing practices and the adoption of new and more efficient clearance procedures. The number of additional Customs inspectors we need could be kept to a minimum if clearance procedures for passengers and cargo are made more efficient.

2) Increase the observation of the forty five minute maximum clearance time standard for any passenger arriving on any international flight, and encourage cooperation between each of the relevant Federal Inspection Agencies and airport authorities to ensure that clearance time standards are met.

3) Provide for the testing of a Centralized Examination Station (CES) concept linked to a clearance time standard for air cargo.

4) Request that McKinsey re-examine the issue of air, sea and land cargo clearance computer systems.

5) Require greater accounting transparency of the application of user fee revenues and expenses to help ensure that the law, Congressional intent, and treaty obligations are being honored.

. Passenger Clearance

In a world economy that is becoming increasingly service and leisure oriented every day, we can think of few industries more important to our overall competitiveness in world markets than tourism. Foreign national tourists visiting the United States on vacation is a U.S. export that helps redress many of the trade imbalances that have recently become such serious economic and political issues. While we may import more Japanese cars than we export American cars to Japan, we are visited by more Japanese than Japan is visited by Americans. And the good news is that foreign tourist visits to the U.S. are likely to grow at a faster rate than U.S. citizen purchases of foreign cars.

It is, therefore, vitally important to our economic well-being, that we stay on top in the fiercely competitive international tourism industry. Foreign visitors arrive in the United States with high expectations of the level of service America is famous for, and all too often, their expectations are dashed in the very first hour in this country when they struggle through the federal inspection service processing. These valuable foreign visitors feel cheated as the $10 they paid seems to have bought them very little service in return. We, nevertheless, continually fail to appreciate just how important the treatment that foreign tourists receive on arrival is to our economy.

Despite urgent national priorities, such as the interdiction of narcotics at our borders, we can ill-afford to ignore the vital, but relatively unglamorous, areas of passenger and cargo processing service. In the past, federal inspection services have pointed to the lack of adequate funding for the inspection of cargo and passengers as the reason behind inadequate facilitation. With the collection of user fees, revenues are more than adequate for the much needed additional staff, new facilities and an attitude of "service first".

We hope that the volume of arriving international passengers and cargo continues to grow at even faster rates than the 10% growth rate we enjoy today. Since tourism and trade are of huge economic benefit to the United States, airports work diligently to increase the number of foreign visitors and the amount of trade to their community and we need the support of Congress and the Customs Service in this effort, through the provision of good federal inspection service resources for passenger and cargo processing.

As in past years, we appear before you and ask for more Customs inspectors at our gateway airports, to process an ever increasing volume of international arriving passengers, that currently is doubling every six years. This year is no exception. It should be sufficient to say that while the volume of international arriving passengers will increase substantially in FY 1989, we know of no plans to increase the number of Customs inspectors at our airports.

Although due to past funding shortfalls and diversions, and the current surge in the volumes of international arriving passengers and cargo, there is a need for substantially increased numbers of customs inspectors, our real need is for dramatically improved passenger and cargo inspection processing service and greater inspector staffing flexibility. This would allow for the more efficient, effective and speedy inspection of international arriving passengers and cargo. But improved inspection procedures and staffing methods are much less tangible than numbers of customs inspectors and, therefore, are much less easy to ask for, to quantify, to receive and to maintain under our budgetary process. We worry, not without reason, that if we ask for what we really want, we may only get half the bargain -- a few more inspectors and today's old and inefficient inspection procedures leading to greatly reduced levels of inspection service.

Every year, therefore, we play it safe and ask only for the additional customs inspectors needed to clear increasing volumes of passengers and cargo using the same archaic and inefficient inspection techniques. In so doing, we perpetuate the use of inefficient inspection procedures, making it, of course, more difficult and risky each successive year to ask for what we really want. It is our own prisoner's dilemma.

This year I would like to concentrate on these two important needs that end up playing second fiddle to our plea for more inspectors.

Passenger Inspection Procedures

Long after most comparable nations have gone to more sophisticated, efficient, facilitation oriented inspection procedures (which we believe are no less effective in terms of enforcement than our own), the U.S. is still in the dark ages of individual passenger inspection. The development and nationwide application of a true red/green inspection procedure similar to that used in most of Western Europe should be a top priority at Customs headquarters in the regions and at the district level.

We are encouraged to see that Customs is taking significant initiative in this area and is willing to at least develop and test new concepts for passenger inspection. Last summer an AOCI member airport was chosen as the test site for a new "high risk/low risk" inspection procedure. In essence, this operation involved the inspection of only those passengers whose behavior matched a "profile", allowing the vast majority of passengers to move through the Customs area without having to stop. The new procedure was an overwhelming success, with the Customs portion of the overall clearance time for the majority of passengers being determined only by how quickly they could walk out the door. Contraband seizures improved markedly during two of the three months of the test, with only a slight diminution in seizures in the last month coincident with a major staff rotation and the need to retrain new inspectors. We are happy to report that the program has recently been reimplemented and we hope to see the continued application and expansion of such new procedures. AOCI implores Congress to actively support such outstanding initiatives of the Commissioner and his staff.

AOCI understands that Customs shall shortly be releasing a draft of a document that details the facility requirements of Customs as a guide to planners of airports, seaports and border crossings. We look forward to reviewing the specifications and will be particularly interested to see whether old or newer inspection procedures are contemplated in the requirements for Customs facilities.

Customs Staffing Methods

Irrespective of the numbers of Customs inspectors and the inspection procedures that are employed, there is a growing need for inspector staffing to be flexible so that the number of inspectors on duty correlates with the volumes of international arriving passengers, not by month, not by day, but by peak hourly period. The growth in international arriving passengers is often concentrated at an airport into a few peak hours so that the relatively manageable 10% to 15% overall growth rate results in a 50% to 100% increase in arriving passengers during peak hours. The passengers arriving during a peak period have paid for, and should receive, the same high level of service offered to passengers arriving during off peak hours.

It is important that the Federal Inspection Services realize that peaking is not a phenomenon of coincidence; it is instead the result of carefully planned schedules that allow people to fly at convenient times, that avoid curfews and other operating restrictions, and that maximizes the utilization of the multi-million dollar aircraft. Just as scheduling is not an accident of happenstance for passenger flight schedules, neither is it an accident for cargo flight scheduling. The growing volume of time sensitive cargo [overnight letters, perishables, spare parts, etc.], the service demanded by cargo shippers, and other consumer service considerations all play a part in establishing cargo flight schedules.

It should be understood that the argument which we hear from time to time that the arrival peaks of international passengers and cargo be spread for Federal Inspection Service processing is not an alternative to providing the level of service that passengers and cargo shippers have paid for. Customs has the onus of providing inspectors at the points of entry where and when the demands of air commerce dictate. Customs is a service organization and to have passenger and cargo flight schedules determined by the availability of inspectors is to have the tail wagging the dog.

Similar to the problems created by peaking are the problems created by the distribution of international arriving passengers and cargo between airports. Current Federal Government policy helps create an inefficient distribution of Customs personnel. The recent establishment of new customs clearance operations at small points of entry has led to the posting of many of the more experienced inspectors from our large "high risk" airports such as New York, Miami and Los Angeles to help in the implementation of the new operation. Such postings are highly sought after as the new operation is likely to ensure a lighter workload than at the large "high risk" airports and since the same salary is likely to buy more house at the new points of entry than in New York, Miami or Los Angeles. Not surprisingly, many Customs employees who can move, do, and since passenger and cargo traffic tend to be concentrated at the "high risk" airports these become understaffed while smaller airports become overstaffed. This bias between regions needs to be redressed, not to favor one airport over another, but to ensure that the passenger and cargo shipper receives the inspection service that has been paid for.

A specific example of how Customs staffing procedures fail to respond to the peaks of international arriving passengers and cargo at an airport involves weapons training for Customs Inspectors. Customs Inspectors are required to qualify as competent to carry a firearm four times a year, while all other military and law enforcement regulations stipulate an annual re-qualification. Customs inspectors can only be qualified by a Customs range officer and in at least one region there are so few of these range officers that when a Customs range officer visits an airport, up to 50% of the available inspectors must be taken off duty for certification. Range officers only seem to visit Friday afternoons when the first weekend arrivals start flooding into the airport arrivals hall. This creates long clearance delays, missed connections and a great deal of human misery. A simple solution to this problem would be to change the regulations to allow customs inspectors to be weapons-certified by other law enforcement range officers under contract with Customs. This arrangement need only occur at points of entry where it is impossible to fulfill training requirements while insuring the on duty staffing levels to provide good inspection processing service.

Furthermore, the requirement that Customs inspectors be armed while inspecting passengers creates an extremely detrimental first impression of the United States for many of our foreign visitors from lands where weapons are rare. Aside from the logistical nightmare, we believe that the carrying of a firearm may also mislead inspectors to assume an "enforcement" attitude as opposed to a "facilitation" attitude when clearing passengers.

Clearance Time Standard

Ultimately, the most powerful tool of oversight, the best protection for the tourism industry, and guarantee of service to the passenger is a clearance time standard. With the help of this Committee, the FY 1988 Appropriations Bill included report language which expressed the intent of Congress that forty five minutes should be a standard for the clearance of international arriving passengers. Specifically, the language states the forty five minutes starts from when the arriving aircraft stops at the gate and ends when the passenger has cleared all Federal Inspection Service processing. The forty five minutes is not a standard for the average clearance time but rather a maximum clearance time for any passenger that is not given a major secondary inspection. In other words, the last person off a B747 on the busiest hour of the busiest day of the year should be cleared through the entire Immigration, Department of Agriculture, Public Health and Customs inspection process within forty five minutes after the fasten seat belt sign is turned off at the gate. We all have a role to play in meeting the forty-five minute standard as, for example, airports must provide adequate facilities and airlines must deliver bags quickly enough to allow the subsequent activities to function.

We have raised the time clearance issue because average clearance time figures from airports, have been used to claim compliance with the intent of Congress. The average may be 30 minutes, but if it takes you an hour and a half to emerge from Federal inspection processing and as a result you miss a connection, compliance with an "average" standard offers you little comfort.

The forty-five minute clearance time standard is not arbitrary. Rather, it is based on the international connecting time standard of one hour and a half and is aimed at minimizing the delay time for multi-million dollar aircraft that must sit idle and non-productive on the ground for as long as it takes passengers to make connections.

We note that the report language that accompanies the FY 1988 Appropriations bill requires the Commissioner to submit reports to this Committee on February 1, 1988 and August 1st, detailing the procedures adopted to achieve compliance with the forty five minute standard, and the level of successful compliance. We are not aware that the February 1st report has been submitted and would be interested in commenting on it as it becomes publicly available.

Inter Agency Cooperation

What we generically refer to as "clearing customs" is in fact one process involving the Immigration and Naturalization Service, the U.S. Department of Agriculture, and Public Health in addition to the Customs Service. The forty-five minute standard is a maximum clearance time standard that focuses on the clearance processing system as a whole. The passenger certainly perceives it as one procedure and we should start tailoring our legislative, administrative and procedural actions to treating the process as such. For a start, this involves fostering closer cooperation between the Customs Service, the Immigration and Naturalization Service, the U.S. Department of Agriculture and airport authorities so that within the constraints of each fulfilling their duties, inefficiency and duplication are kept to a minimum.

For example, both Customs and Immigration are in the midst of automating their document checking functions. Automatic passport and visa readers identify the passport or visa holder and a database is interrogated to see if the holder is illegally seeking entry into the U.S. or is a wanted felon. It is important to the smooth functioning of the clearance process that passengers do not have to have their documents read by two separate document readers; one belonging to Immigration and one belonging to Customs. Modern computer technology allows for very sophisticated computer to computer communication that ensures the sanctity of each database, and in this day and age it would be unforgivable to require that passports and visas be read twice. Yet, if Congress fails to exercise its oversight powers, it would surprise few of us in the industry if this automation "camel" were to become a reality.

Furthermore, we feel that the Customs Service, largely because of the generic use of the word "customs" to depict overall federal inspection, receives the lion's share of the attention and criticism [not always justifiably so], and AOCI believes that more attention needs to be given to the activities of the other federal inspection agencies and more importantly to the clearance process as a whole. In the past, "divide and conquer" seems to have been the prevalent philosophy of the federal inspection agencies vis a vis dealing with airports and Congress, and AOCI suggests that the possibility of convening a joint Oversight Committee comprised of Members of each Committee with jurisdiction over a federal inspection agency, be considered in the hope that the federal inspection process can at least be periodically examined as a whole by those who normally see only one part of it.

Cargo

Many of our concerns about the processing of international passengers are equally applicable to the clearance of international arriving cargo. The volumes of international cargo are growing at rates similar to the volumes of international arriving passengers. Inadequate staffing levels and out of date inspection procedures are reducing the efficiency and, therefore, raising the cost of shipping goods by air at a time when the U.S. Government, as part of the objectives for bilateral air services negotiations, holds the efficient clearance of cargo abroad as an important priority.

But to be fair, U.S. Customs has recognized the need for improvement and has taken the step of commissioning a study on ways to improve the level of service enjoyed by commercial customers. Few Federal agencies are capable of the honest introspection that the Customs Service has imposed on itself in having an outside firm of consultants perform such a study, and the Commissioner and his management team should be commended. We hope this precedent will be repeated in other areas of Customs operations and at other federal agencies such as the Immigration and Naturalization Service and the United States Department of Agriculture. We are in the process of analyzing the implications of the study for our member airports and, therefore, we would like to reserve final judgement on its findings.

Cargo Automation

One major reservation about the McKinsey report we do have is its treatment of air, sea and land cargo clearance computer systems. Put simply, we think the authors of the report have misunderstood the role that such cargo clearance systems play. We urge that this area be revisited and we gladly offer whatever assistance or information of use to researchers in a further examination of the issue.

The report characterizes air, sea and land cargo clearance systems as being limited in not only their capability to enhance the automated clearance of cargo, but also their applicability to modern cargo transportation. This characterization is the product of the authors having misunderstood the functionality of such cargo clearance systems and having concentrated on the needs of a few very large importers, brokers and forwarders that handle the volume of business required to make automating individually worthwhile.

The airport that has implemented the first automated cargo computer system of its kind in the United States was not consulted by McKinsey and we feel strongly that the whole story has not been told. Air, sea and land cargo clearance systems will ultimately eliminate all paperwork in the clearance of cargo and are the only systems that have the capability to see the import and export transaction through, from start to finish; they have the broadest possible capability.

Such systems shall be used primarily by those brokers, forwarders and importers who, alone, could not bear the cost of developing such a system, and of all the brokers, forwarders and importers in this country only a relative handful have the financial resources to become automated on their own. Air, sea and land cargo clearance computer systems, therefore, have a potentially wide applicability to the cargo industry. It is vitally important that these small businesses have access to the automation capabilities of the most sophisticated brokers, forwarders and importers, because if they do not, they will be run out of business and we will all suffer from the higher costs and reduced service levels that accompany reduced competition.

Manifest Information

A further issue involving air, sea and land cargo clearance computer systems, known by the term of "port systems" or "port authority systems," is the treatment of manifest data. To date, seaport systems are deemed by U.S. Customs to be "parties of interest", and are, therefore, eligible to receive manifest data from Customs. It is a matter of equity, and vital to the smooth flow of cargo that air cargo clearance computer systems be deemed a "party of interest" by Customs. To realize the potential that air, sea and land cargo computer systems hold, requires the downloading of manifest information from Customs to all such systems, without discrimination. This is an extremely technical issue but one which has implications that are vital to the future of the cargo industry and to the role that airports and seaports play in facilitating trade in our communities. It is, therefore, important that Congress comes to understand the technicalities to ensure that Customs makes a truly informed decision.

Central Examination Stations

We understand that in response to the McKinsey report Customs shall be establishing clearance time standards for air cargo. Since a formal proposal is yet to be made, we cannot comment in detail on the terms and conditions offered by Customs. We wholeheartedly support the concept of a clearance time standard for air cargo, just as for the clearance of international arriving passengers.

Indeed, we would like to go one step further by having Customs face a significantly shorter clearance standard than they will face for general air cargo, for all intensive examination cargo that is voluntarily submitted by an airline for examination at a so-called Central Examination Station or CES. The issue of CES is one of considerable controversy. On one side of the debate is Customs and many airports that believe that the efficient use of limited Customs manpower requires that the examination of cargo be concentrated into fewer locations than every airline cargo shed. This does not necessarily imply inspection in only one facility, as many would seem to believe.

On the other side of the debate are the airlines and other cargo interests who feel strongly that the double handling of the cargo required in many instances under a CES program adds significantly to the cost of cargo transportation. There has been, we believe, significant misunderstanding on both sides of the CES debate. For example, many airlines seem to be concerned that there would only be one CES per airport at the major cargo airports, implying substantial inconvenience. In reality, an airport would fight to have as many CESs as were needed to provide efficient processing service, taking into account the cargo handling requirements. Indeed, a positive cost/benefit to airlines would have to be projected for an airport to allow the implementation of a CES. After all, improved inspection efficiency is the whole point of the CES concept.

The current report language prohibiting the implementation of CES, notwithstanding, we believe that at one or more airports a Centralized Examination Station should be made available on a voluntary basis, as many CESs as are needed for all airlines to have efficient access, for those that wish to have their cargo cleared on an expedited basis. We could all then see whether the economic benefits of faster clearance are or are not worth the additional handling expense. We have an opportunity to test the arguments of each side of the debate, and we should use it.

User Fees

An issue of concern to both passengers and cargo is the treatment of user fees. The intent of Congress in enacting user fees was blatantly violated by the Office of Management and Budget in 1987, and, had it not been for the strong direction of this Committee, I suspect it would have been violated again in 1988. As we prepare for 1989, I would like to thank you for your efforts in this regard and ask that you continue your vigilance. We are not out of the woods yet.

It is important that user fees be spent on the services directly consumed by those that are paying the fees, not only as a matter of equity but also as a matter of treaty obligation. The finding that the ad valorem cargo fee violated GATT came as no surprise, but changing the fee basis to comply with GATT alone will not have solved all of our problems. Most bilateral air services agreements between the U.S. and a foreign nations require that user charges not exceed the full cost of the services provided, and are equitably apportioned among categories of user. It is clear that to achieve compliance, those fees charged to air passengers should be applied solely to the Customs inspection of air passengers, while those fees charged to sea freight should be applied solely to the inspection of sea freight at our ports, and so on.

It matters that we comply because discriminatory practices facing our carriers in foreign countries are much more difficult to resolve if the U.S. itself is cross subsidizing one user category at the expense of another. In one particular case, the credibility of the U.S. case has been, in our view, severely damaged because while the misappropriation or failure to spend departure taxes and Federal Inspection Service user fees may not be of the same magnitude as the discrimination our carriers are facing abroad, it is nonetheless a violation of the agreement. The U.S. Government puts a great deal of time and effort into developing policies and negotiating agreements that optimize the competitiveness of U.S. industry. If we as a nation are not "squeaky" clean, we handicap ourselves when negotiating trade treaties and air services agreements to improve the competitiveness of American industry.

The first step towards a sensible user fee system was taken by this Committee last year by having all such fees deposited in one account. The next step, that we hope you shall take this year is to require Customs to provide a more detailed accounting of the revenues and commercial expenses of Customs. There should be a breakdown of revenues from cargo by mode of transport and from passengers by mode. There should be an accounting of the costs of passenger inspection and cargo inspection by mode and there should be a detailed breakdown of the functions performed by those Customs inspectors that are funded through user fees. For example, the 1988 Administration budget includes the statement that, "the commercial operations to be funded within this category (user fee funding) include the commercial activities currently provided for in the Inspection and Control, Tariff and Trade and Investigation activities." There is no limit to the sorts of non inspection related expenses that may be slipped in under this cover by the Office of Management and Budget, and to ensure that the intent and mandate of Congress is not being abused we need greater accounting transparency of the user fee fund.

Conclusion

In conclusion, Mr. Chairman we have briefly touched on the vast array of Customs issues that affect airports every day. We are impressed by the organization and dedication of the Customs Service under the helm of Commissioner Von Raab. The McKinsey report, as I mentioned earlier, represents an extraordinarily bold step for a Federal Agency which we hope will be copied elsewhere. Our comments on the report itself are being assembled and shall be available to the Committee when complete. There are, however, areas that require significant improvements before we can even consider ourselves on a par with many other comparable nations. A true red/green passenger processing system and a greater responsiveness of staffing levels to demand are just two of these areas. The legislation of the forty-five minute standard for the federal inspection clearance of any passenger arriving on any flight on any day of the year, would be a significant step towards providing the motivation for service improvements.

We commend the efforts of Commissioner Von Raab and his staff in starting the improvement process and we can only hope that should he no longer be Commissioner when this budget takes effect, that his successor will share his dedication to the traveling public and cargo shippers. Regardless of who is Commissioner, AOCI will support the efforts of Customs to facilitate the clearance of passengers and cargo and, where necessary, give considered and constructive criticism on behalf of the users. There is no free market in the services of Customs and, therefore, the only way we can impose the discipline of the market is through Congressional oversight and responsible industry participation in the oversight process.

Mr. Chairman, last year, through the appropriation process, this Committee was instrumental in achieving many improvements in the Customs Service. We would particularly like to thank you and this Committee for the role you played in establishing a forty-five minute clearance time standard, the acceleration of the development of the Automated Commercial System (ACS), the expansion of the Customs workforce and the consolidation of the user fee account. AOCI hopes that this Committee will continue to support, and take the lead in initiatives to improve the level of service provided by Customs along the lines suggested in our testimony.

While always important, the budgetary and oversight influence of Congress over such federal agencies as Customs is particularly important today. Whenever an issue as emotional as drug use grabs the attention of the nation, cool heads are needed to ensure that in our zeal to vanquish the foe, the less pressing priorities are not forgotten. Many espouse the view that facilitation is by nature in conflict with enforcement. We do not share this view and see it mainly as an excuse to subjugate the need to provide passengers and cargo shippers the service they have paid for. We implore the Committee to ensure that this is not so.

Thank you.

Senator DECONCINI. Thank you, Mr. Judy. I am going to have to conclude.

The only question I have, and let me say that your testimony is very helpful to us—I have read it before. I have not read this testimony, but I will—because you are on the frontline.

Let me just pick one of the agencies, Customs—I know you deal with so many down there—in 1988, is it better than it was in 1987, or is it worse?

Mr. JUDY. I would say that the current administration, especially with the user fees, it is getting better. I think, with money now, there is no further excuse, we can start to put standards.

You mentioned the interest, if I might say, requiring the Government to pay interest if a person doesn't receive their lump sum retirement fund in time, that is a standard. Those are very valuable things to put in place, because they then have to come back here and be accountable as to why so much interest was paid. It really is an excellent concept.

The 45-minute time clearance rule needs to be put into legislation. The 15-minute response time to cargo rule needs now to be put in place. We could all measure against that. The agency can function much better. It is a driving force. It is the closet that the legislative process can get, it is like a board of directors setting the standards for their executives. It is a very, very helpful thing, and we need that.

Senator DECONCINI. Almost everybody in the world who flies, probably, has passed through Miami International Airport. My compliments to you and your people down there for the operation that you have put together. It is no easy task herding all those people through there in a manner that doesn't get them knocked down.

Mr. JUDY. Thank you, Mr. Chairman.

Senator DECONCINI. My appreciation, and thank you very much for your testimony.

STATEMENT OF BENNIE BENSON, AMERICAN ASSOCIATION OF RETIRED PERSONS

ACCOMPANIED BY:
DAVID A. AFFELT, LEGISLATIVE CONSULTANT
PATRICIA HOATH, PROGRAM SPECIALIST

Senator DECONCINI. Next we will hear from the American Association of Retired Persons, Bennie Benson.

Ms. Benson, your full testimony will be put in the record, if you would please summarize it for us. You have 5 minutes.

Mr. BENSON. I have at the table with me Mr. David A. Affelt, who is the legislative consultant to AARP, and Ms. Patricia Hoath, a program specialist in the tax aid program.

Senator DECONCINI. Welcome.

PREPARED STATEMENT

Mr. Benson. We appreciate the opportunity to testify on behalf of the American Association of Retired Persons. We have a longer statement, which I will ask unanimous consent to enter into the hearing record.

Senator DeConcini. Without objection.

[The statement follows:]

STATEMENT OF BENNIE BENSON

The American Association of Retired Persons, appreciates this opportunity to testify before the Treasury, Postal Service, and General Government Appropriations Subcommittee.

Our testimony today will focus on two funding items: (1) the Tax Counseling for the Elderly (TCE) program and (2) the revenue foregone postal subsidy. Our presentation, though, will concentrate primarily on TCE.

A. Tax Counseling for the Elderly

First, we wish to express our sincere appreciation to all the members of this Subcommittee for your strong support of the TCE program. TCE has served a growing number of older taxpayers, in large part because of your leadership and support.

Not only has TCE served more older Americans, but also the IRS has benefitted because TCE counselors have helped to ease the very intense workload for local IRS offices. This help has included answering taxpayers' questions, providing assistance in preparing tax returns, and generally enabling older persons to understand and comply with their obligations.

AARP's Tax-Aide program, the largest of the TCE projects, has received several awards for distinguished service in recent years. In 1986, for example, Tax-Aide was one of 30 organizations selected nationwide for a presidential citation for exceptional contributions in providing volunteer service. In 1987, the AARP Tax-Aide program received the Internal Revenue Service Commissioner's Award for outstanding and significant service in the public interest. We want to emphasize as strongly as possible that these achievements would not have been possible without the effective support of this Subcommittee.

More than 25,000 volunteers served as Tax-Aide counselors, coordinators, and instructors during the 1987 tax season to assure that this free service was provided effectively and efficiently. Figures are not yet available for this year. Our preliminary reports suggest more volunteers will participate this year, and they will help more than 1.2 million elderly taxpayers who were assisted during the 1987 tax season. We shall, of course, be pleased to provide the Subcommittee with the exact figures for 1988 when the information is available.

We expect the volume for Tax-Aide and other TCE programs to remain at a high level for 1989, and it will quite likely increase. One important reason is that the elderly population continues to grow rapidly. Additionally, many senior citizens are still not completely conversant with the new tax law. Substantial changes in the Internal Revenue Code are reflected in tax returns that are filed this year. These include the additional standard deduction for persons 65 or older who do not itemize their deductions, the elimination of the additional personal exemption for taxpayers 65 years of age or older, the raising of the floor (from 5 percent to 7.5 percent of adjusted gross income) before medical and dental expenses can be claimed for taxpayers who itemize their deductions. Regulations regarding IRA's and pension benefits continue to be confusing. In addition, older taxpayers frequently have questions concerning whether prior provisions in the Internal Revenue Code -- such as the once-in-a-lifetime capital gains exclusion (up to $125,000) -- remain in effect.

For these reasons, we are recommending that the Subcommittee approve at least $2.65 million for TCE, the same amount as for fiscal year 1988. An adjustment for inflation and the likely increased demand for TCE services would clearly be warranted, and the money would be well spent. However, we are simply urging you to approve a funding level not less than $2.65 million because we fully recognize that the budget situation is extremely tight.

Over the years, the IRS has repeatedly emphasized that no taxpayer should pay more taxes than legally required. Some are confused by the tax form. Others are overwhelmed by the Internal Revenue Code. Numerous elderly persons are simply unaware of available deductions and other tax relief measures.

Tax-Aide and other TCE programs help to insure that elderly taxpayers claim all lawful allowances. Moreover, TCE and Tax-Aide assist taxpayers who need to file amended returns to claim deductions that they overlooked or to pay additional tax when they underreported or failed to report income.

Tax-Aide also benefits the IRS by increasing taxpayer accuracy and compliance. This produces additional revenue for the Treasury. Furthermore, IRS is increasingly utilizing Tax-Aide volunteers instruction to provide training for TCE counselors -- thus freeing up IRS personnel to perform other services.

Finally, the program has enabled the IRS to serve more effectively hard-to-reach older taxpayers, such as elderly minorities, the rural aged, and shut-ins, including those residing in nursing homes and senior citizens housing.

TCE has been a "win-win" proposition for all concerned -- the nation, the IRS, and older persons who receive competent and polite services at no charge. We, therefore, urge again that funding for TCE be maintained at least at $2.65 million.

B. Revenue Foregone Appropriation

In addition, the Association urges the Subcommittee to approve a revenue foregone appropriation which would maintain postal rates for nonprofit mailers at the current step 16 levels. This is currently estimated at $437.4 million, and is reflected in the Fiscal Year 1989 Budget Resolution as passed by the House and approved by the Senate Budget Committee.

Congress provided this subsidy in recognition that private, nonprofit organizations complement government activities at all levels -- federal, state, and local. Indeed, the nonprofit sector often acts as a substitute when governmental units are unable to perform certain functons because of budgetary constraints. In many cases, these services enable recipients to live independently without any governmental assistance.

Many of these services would be sharply curtailed or eliminated if Congress does not provide adequate funding for the revenue foregone subsidy for nonprofit mailers. Reduced postal rates for private, nonprofit organizations enable these groups to utilize their limited resources more effectively in providing supportive, educational, health, and other human services. A substantial increase in postal rates would make it more difficult for the private, nonprofit sector to deliver these essential services.

AARP strongly believes that it is sound and sensible policy to encourage private, nonprofit organizations to complement government activities and to fill in voids where service gaps exist. This rationale is even more compelling now because of recent federal spending cuts for social programs.

C. Conclusion

In conclusion, the Association appreciates the opportunity to present its views concerning these issues and urges the Subcommittee to recommend at least $2.65 million for TCE and a sufficient amount [currently estimated at $437.4 million] for the revenue foregone appropriation to maintain current policy for nonprofit mailers.

Mr. Benson. I shall summarize key points from this written statement, which focuses on two major funding items—the Tax Counseling for the Elderly [TCE] Program, and the Revenue Forgone Postal Subsidy, but I shall confine my oral testimony to the TCE, Tax Counseling for the Elderly Program.

At the outset, we wish to commend the subcommittee for your strong support and leadership on behalf of TCE. Your past actions have enabled AARP Tax-Aide Program and other TCE projects to assist many older Americans. Moreover, your support has contributed significantly to several awards that Tax-Aide has received in recent years, including a Presidential citation in 1986, and the IRS Commissioner's Award in 1987, for significant service in the public interest.

We fully appreciate that these achievements would not have been possible without your backing and we wish to thank you again for it.

We expect the volume of Tax-Aide and other TCE programs to remain at a high level for 1989, and quite likely will increase for two important reasons: First, the elderly population continues to grow rapidly; and, second, many senior citizens are not completely conversant with the new tax law, and they are not comfortable with it.

The 1986 Tax Reform Act represented one of the most sweeping changes of the tax law ever. A large proportion of older Americans have questions about the effect of these changes. They simply need help in preparing their returns accurately. For these reasons, we are recommending that the subcommittee approve at least $2.65 million for TCE for fiscal year 1989, the same amount as for fiscal year 1988.

An adjustment for inflation and the likely increased demend for the TCE services would clearly be warranted, and the money would be well spent, however, we are simply urging the subcommittee to approve a funding level not less than the $2.65 million because we fully recognize the budget situation is extremely tight.

Over the years, the IRS has emphasized repeatedly that no taxpayer should pay more taxes than legally required. Some are confused by the tax forms, others are overwhelmed by the Internal Revenue Code. Numerous older Americans are simply unaware of the available deductions and other tax relief measures for them.

Tax-Aide and other TCE programs help to ensure that elderly taxpayers claim all lawful allowances. Moreover, TCE and Tax-Aide assist taxpayers who need to file amended returns to claim deductions which they overlooked or to pay additional tax if they underreported or failed to report income.

Tax-Aide also benefits the IRS by increasing taxpayer accuracy and compliance. This produces additional revenue for the Treasury. Furthermore, IRS is increasingly utilizing Tax-Aide volunteers as instructors to provide training for TCE counselors, thus freeing IRS personnel to perform other needed services.

Finally, the program has enabled the IRS to serve more effectively hard-to-reach older Americans, such as elderly minorities, the rural aged, and shut-ins. For example, AARP's Tax-Aide Program is devoting increasing attention to taxpayers residing in nursing homes and senior citizen housing.

In conclusion, TCE has been a win-win proposition for everyone concerned—the Nation, the IRS, and the older people who receive competent and polite service at no charge. It has also enabled elderly persons to serve as volunteers in a meaningful capacity. We have heard repeatedly from older tax counselors who tell us about their rewarding experiences in assisting others. For these reasons, we reaffirm that funding for Tax-Aide should be maintained at least at the $2.65 million for fiscal year 1989.

This concludes my testimony. I would be glad to try to answer any questions, sir.

Senator DECONCINI. Mr. Benson, thank you.

I just want to pay tribute to the American Association of Retired Persons for their constant interest in the subject of present employees and retired employees. I think you serve yourself well. Though time is short this morning, as it seems to be up here, we pay particular attention to your testimony and your full statement. I have no questions.

I am going to yield to the ranking member, Senator Domenici from New Mexico for any opening statement or questions that he may have.

Senator DOMENICI. I was just going to ask two questions.

How many members do you have now?

Mr. BENSON. Of AARP?

Senator DOMENICI. Yes.

Mr. BENSON. More than 28 million, sir.

Senator DECONCINI. Did you say 28 million?

Mr. BENSON. Yes; 28 million.

Senator DECONCINI. Are they registered to vote? [Laughter.]

Mr. BENSON. It is going up at the rate of 14,000 a day.

Senator DOMENICI. I know your advertising is tremendous. You lowered the age recently for joining, didn't you?

Let me just ask you. This subcommittee, not singularly but under Senator DeConcini's leadership, and I hope I have been helpful, has been pushing the Internal Revenue Service to be more of a service organization than just a tax collector.

I think we are both convinced, and if he doesn't agree with this, he will stop me, but I think we are both convinced that the Internal Revenue Service has to get back a reputation of being a very just and fair organization. It has to collect taxes from those who would like not to pay, but clearly, it seems to me at least, that the senior citizens are a pretty good barometer of whether the Internal Revenue Service is providing help to taxpayers, being responsive, making things, under a complicated system, as simple as possible. I just wonder if you have any way of assessing that.

We are aware that they are going through very difficult and traumatic times at the IRS. We changed the law, in whole or in part, every year for 5 years. Now we finally have a new code, and it is brand new.

The new Commissioner has made all kinds of commitments to us, and I think he is sincere, about service, telephone assistance, and agents being available to help, so I am not beating up on anybody. But what would your barometer tell you about how seniors feel about the IRS and their attitude toward taxpayers?

Mr. BENSON. I can speak primarily for myself. I have worked in the Tax-Aide Program as a volunteer for now 9 years, I can tell you that the program has improved, and I can't tell you how many thousand percent in those 9 years.

The instructional material that is prepared by IRS is superb. The last manual that we had left almost nothing to be desired. It is really a wonderful manual, and it was put together by the IRS. Nine years ago there wasn't any manual, it was ad hoc, and I really mean ad hoc, which meant that the training was not standardized, it depended on the individual instructor. If you had a good instructor, you had some good training. If you had a lousy instructor, you got nothing.

I would like to say that the IRS has done very well by us over my span of working with them.

Senator DOMENICI. May I ask one more question?

Senator DECONCINI. Sure.

Senator DOMENICI. This is really off the subject of this committee's activities, but I guess we could find some way to relate it, and probably it doesn't matter if it is or not. I have a notion that out there among our retired people, men and women, there is just a vast resource of talent that is going unused, if I may just give you a few examples.

It is obvious to me, let me take one field, that we have a lot of great scientists who have left General Electric, or the National Institutes of Health, or Sandia Laboratories. They have great capacity in their fields.

Using that just as a specific, does AARP have any way of surveying the senior citizen population as a resource to assess whether they are being used voluntarily, in part-time jobs, or the like?

It seems to me, we are not using that resource, and it seems to me that they are more happy if they are doing something, if they are helpful, be it in an educational system, or with a program that is directed at young kids. We have a few national programs that I am aware of for professionals to be involved in helping businesses.

Maybe you might just address this issue, and if it is not within your area of expertise, if the AARP does something in it, I would be interested to have your opinions and views.

Mr. BENSON. The AARP does have established what they call a talent bank.

Senator DOMENICI. That is great.

Mr. BENSON. They have asked retirees to list the talents that they have available, and the talents which they would be willing to make available on an on-call basis if some use could be found for them. If they get a request for a person with certain capabilities, this is fed into the talent bank, the names come out, and those names are referred to the person making the request. That is one thing that has been done.

Another thing is the RSVP Program, which I am sure you probably have heard of, which tries to make use of retired senior volunteers.

Senator DOMENICI. What has your talent bank revealed? Do you have a lot of people who are willing to state their talent and say that it is available on call?

Mr. BENSON. This is a relatively new program, and it is just really coming to the fore, but it has provided some very useful information for people when we needed some help in this particular field.

Ms. HOAST. If I may, I understand that the talent bank, the names and information in the talent bank, is made available to other organizations, the Red Cross, the United Way, and other organizations that might have use for older volunteers.

We do regularly do surveys as part of AARP's activities, and it is my understanding that a large number of older people do volunteer activities, not necessarily with AARP, but with other local community groups, and many local activities. I don't know the figures offhand, but I could get those to you if you are interested.

I think you are right in saying that a lot of older people have the experience and the interest in continuing to be active, and the Tax-Aide Program is a good example of that.

Senator DOMENICI. Were you going to say something?

Mr. AFFELT. Yes; AARP also operates a senior environmental employment program that is funded through the Environmental Protection Agency. This is an example where they will use people with scientific backgrounds to perform a wide range of services in terms of improving the environment.

In addition, the association has been very supportive of using retired teachers in math and science to fill in some of the gaps that exist in certain high schools throughout the country. These are just some examples of what the association has done.

Senator DOMENICI. Mr. Chairman, I don't think it needs to be made a part of this committee's record, but I would very much like any information you could give me about the talent bank or the survey. I think it is a very interesting resource that we ought to be using at the local level around this country. I would like to have that if I could please.

Thank you, Mr. Chairman.

Senator DECONCINI. Thank you, Senator Domenici.

Thank you very, very much for your testimony. It is very helpful to us.

STATEMENT OF CHARLENE BICKFORD, DIRECTOR, NATIONAL COORDINATING COMMITTEE FOR THE PROMOTION OF HISTORY

Senator DECONCINI. We will now hear from the National Coordinating Committee for the Promotion of History, Charlene Bickford, the director.

Ms. Bickford, if you would summarize your testimony, we will put your full statement in the record.

Ms. BICKFORD. Thank you, Mr. Chairman.

I am here this morning representing a multitude of historical, archival, and library organizations that have banded together to support the National Archives and the National Historical Publications and Records Commission.

We are asking for a budget of $123.6 million for the National Archives this year, which includes $6 million for the NHPRC. I feel a little chagrined, after the questions to Ms. Horner about the increases in her budget, to say that this is a 50-percent increase over previous year funding.

NHPRC's funding has been at the same level since 1977. A recent Congressional Research Service study looked at what they would need. In 1974, they had an authorization level of $4 million, and the current funding is still at $4 million. What they would need to have the equivalent programs comes to $9.7 million.

The Senate committee has already agreed to a $10 million reauthorization bill, so the $6 million is merely to try to take care of some of the stagnation that has begun to occur in the program simply because there has not been any increase since 1977.

We believe that historical documents, the preservation and the publication of these documents, are essential for the public's understanding of various aspects of our history. I use a few examples in my testimony.

As Director of the First Federal Congress project, we have been asked by media people, people who are putting together exhibits, even the people in the Clerk of the House's Office, last year, who were doing a brief in support of the special prosecutor legislation, for information out of our files. This information makes possible such public things as the "Adams Family Chronicles," or the "Booker T. Washington Biography," films that have been on PBS television.

The NHPRC has very efficiently used the funding that they have had by insisting that indirect costs be paid by other sponsoring institution, and that there be other direct cost contributed by private or sponsor funds. So they have leverage the Federal dollars very effectively, and that is how they have managed to keep the program alive during a period of budget stagnation, but at this point, projects have suffered.

They are not able to do things like a book edition of the Susan B. Anthony/Elizabeth Katie Stanton correspondence. They are not able to contribute to the legal papers of Abraham Lincoln, or to start the papers of Eleanor Roosevelt on track, and many of the record needs of the country are going unmet.

They are the leader in this area, and the only organization in the Federal Government that is committed to doing a Federal effort in the area of records publication and preservation. So we are very much in support of their programs and also of the National Archives, and any efforts that the committee can make in respect to the needs of the National Archives for a new building, and also for a more effective declassification of records, and preservation of records. They have overwhelming needs also, and need to have a thorough reexamination of their budget, which I don't think has been able to occur during this period when the budget has been so tight.

PREPARED STATEMENT

We support the $6 million for the NHPRC, and the $117.6 million for the Archives and hope that the committee will not take the funding for the NHPRC out of the Archives' budget.

Senator DECONCINI. Thank you very much, Ms. Bickford, we appreciate that testimony. I have no questions.

Senator DOMENICI.

Senator DOMENICI. I have no questions.

Senator DECONCINI. Thank you.

[The statement follows:]

STATEMENT OF CHARLENE BICKFORD

Mr. Chairman and members of the committee. I appear before you today as a representative of the myriad historical, archival, and library professional organizations that have united to enthusiastically support full funding for the programs of the National Archives and Records Administration and the National Historical Publications and Records Commission (NHPRC). In particular, I speak for the Association for Documentary Editing and all the other member organizations of the National Coordinating Committee for the Promotion of History. We are grateful for this opportunity to present our views.

These organizations urge you to support an appropriation of $123.8 million for NARA in FY'89. This figure includes the administration's request of $117.8 million plus an appropriation of $6 million for the grants program of the NHPRC, which has again been "zeroed out" in the OMB's budget. Although the authorization bill that has been passed out of the full Senate Governmental Affairs Committee authorizes a spending level of $10 million for the NHPRC's grants program and the need is great for the commitment of the full $10 million, we believe that a request for $6 million reflects the budget realities. The funding for the NHPRC's grants program has been stable since 1977, and a recent Congressional Research Service study (attached) shows that the it would take $9.7 million in today's dollars to equal the $4 million authorized in 1974.

This year we celebrate the Bicentennial of ratification of the United States Constitution and through 1991 we will be marking several anniversaries of the formative period in our national history. This celebration should focus on public understanding of the documents that are the foundation for our enduring form of government: the records of the Federal Convention, the U.S. Constitution, the ratification debates in the states, the Federalist Papers, and the legislation enacted by the First Federal Congress which fleshed out the Constitutional skeleton and provided stability for the new government.

I am the director of the First Federal Congress Project, a project that is publishing all the extant records, official and unofficial, of probably the most important and most productive Congress in our history. The project is co-sponsored by the NHPRC and George Washington University with most direct costs funded by an annual NHPRC grant. I want to focus on this particular project as a case study of the usefulness of the materials published by all NHPRC publications projects, such as the First Elections Project at the University of Wisconsin, the Documentary Relations of the Southwest series at the Arizona State Museum, and the Freedom History Papers and Samuel Gompers Papers at the University of Maryland.

In 1986 we published three volumes which present legislative histories of every bill and resolution introduced in the First Congress, including the act that established the federal judiciary system, and the amendments to the U.S. Constitution that later became known as the Bill of Rights. These volumes, which consumed 6 years of our time in compiling, annotating, proofreading, indexing, etc. may seem dry reading, but they present the source materials in a way that enables researchers to understand as much as can be known about the official process that led to the enactment of a particular piece of legislation. And they have a relevance to the present day, as illustrated by the fact that during the past year volume V has been cited by both sides in the case relating to the constitutionality of the special prosecutor.

This legal use is just one of the many examples of the uses for the materials in our six published volumes and the 14 volumes of debates, letters, petitions and other materials left to be published. The advent of the 100th Congress occasioned a burst of interest in the 1st Congress on the part of the media. During this period we assisted reporters for or were interviewed by ABC radio news, the New York Times, the Fort Worth Star Telegram, the TV program Modern Maturity, and the Washington Post Magazine. Because there are no good secondary sources available on the First Congress and most of the documents in our files have never been published, our files and staff provide the "database" for anyone requiring information about this formative Congress and its members. We are currently cooperating with the National Portrait Gallery on a unique exhibit of portraits of and documents by members of the First Congress to be shown in 1989. The researchers for the documentary film on the history of Congress being produced for the Congress's Bicentennial are working in our files.

Special projects such as an exhibit or film to be shown on PBS are tremendously attractive to private funding sources seeking a highly visible return on their dollar, but the preservation and publication of the documents that provide the research underpinning for these important programs demands long term stable support to assure its completion. Such support is available only from the federal government. Again employing the example of the First Federal Congress Project, I can assure you that although we have made serious attempts to raise the private funds that the Administration says are available for the support of our project and others like it, we have had very little success. And, like other projects that are dependent on the NHPRC, we have seen the financial resources available to us remain stable over the last decade, thus forcing a reduction in our staff from 5 to 3 during a period when we should have been at our most productive in anticipation of the approaching Bicentennial. Continued funding of the grants program at the current level will cause further cutbacks. An increase of $2 million over the FY'88 figure would provide some additional aid to the nearly 50 publications projects that are now ongoing and fund additional high priority records preservation projects across the nation. The NHPRC is the federal agency which is providing coordinated leadership across the nation in the effort to identify and preserve valuable historical records. Such records document everything from government policy decisions to family lineage. An additional $2 million may seem be only a tiny portion of the federal budget, but it will go a long way because the NHPRC has been extremely successful in employing the federal dollar to "leverage" private support, and all NHPRC projects are funded through some combination of federal, institutional, private and other funding sources. None of the federal dollars are devoted to indirect costs, which are usually the responsibility of the host institution, but without the federal grant the contribution of the institutional sponsors would not be forthcoming. The federal participation is an absolutely essential part of the funding mix and without it many projects, including the First Federal Congress Project, would cease to exist.

As the nation observes this Bicentennial, it is ironic that the NHPRC's grants program, which supports the preservation and publication of the vital documents of our heritage and has an exemplary record of production (see attached statistical sheets), is again threatened with extinction. At the same time the Congress has found around $40 million for the support of the U.S. Commission on the Bicentennial. While not disputing the need for the Bicentennial Commission or its activities to stir public interest, I believe that the activities of the NHPRC will have a much more lasting impact in providing the documentation that will make our history come alive for the American public. Without the documents there could be no Adams Family Chronicles on PBS, or "Booker T." on the Wonderworks program. As part of our Bicentennial celebration we should renew the federal commitment to preserving this documentary heritage.

In addition, the federal government should take a serious look at the needs of the guardian of its own records, the National Archives and Records Service. As the approaching sesquicentennial was an impetus for the creation of the National Archives and the NHPRC in 1934, the Bicentennial of the Constitution provides the opportunity for special initiatives to help the Archives to more thoroughly fulfill its mandate. Several critically important issues need to be addressed, in particular the need for a new archival facility in the Washington metropolitan area to relieve the intolerable overcrowding and inability to do further intake of records at the main building. In a recent presentation to the staff of the National Archives, Archivist of the U.S. Don Wilson noted that after four months as Archivst he is most impressed with the staff but "frankly shocked by the working conditions and space problems of this agency." We join the Archivist in setting as a top priority the need for a new archival building. In addition there is a need for increased funding for systematic declassification; and more resources to devote to the enormous preservation tasks facing the archives. We urge the Congress and this committee to take the lead in addressing the needs of NARA.

I thank you for this opportunity to come before you today and would welcome any questions that you might have.

Congressional Research Service
The Library of Congress

February 23, 1988

TO : House Government Operations Committee
Government Information, Justice, and Agriculture Subcommittee
Attention: Bob Gellman

FROM : Brian W. Cashell
Analyst in Quantitative Economics
Economics Division

SUBJECT: Inflation Adjusted Appropriation

This memorandum is in response to your request for an estimate of what level of appropriations would be required today and in the near future to match the purchasing power of a $4 million appropriation in fiscal 1974.

Table 1 presents historic and projected values of the Gross National Product Implicit Price Deflator on a fiscal year basis. This price index is an estimate of changes in the average level of prices of all goods and services bought and sold in the U.S. economy. The historical values are published by the Department of Commerce, Bureau of Economic Analysis. The projected index values are based on the economic assumptions contained in the President's FY 1989 budget proposal.

TABLE 1. Historical and Projected GNP Deflator and Adjusted Appropriations

Fiscal Year	GNP Deflator	Adjusted Appropriation
1974	51.5	$4.0
1987	116.5	9.0
1988p	120.3	9.3
1989p	124.9	9.7
1990p	129.6	10.1
1991p	133.9	10.4
1992p	137.6	10.7
1993p	140.8	10.9

p = projection

Sources: Department of Commerce, Bureau of Economic Analysis; Office of Management and Budget.

Also shown in Table 1 are the adjusted appropriation estimates. These estimates show, based on the historical and projected deflator, how large an appropriation would be required to match the buying power of $4 million in 1974. In fiscal 1987 a $9 million appropriation would have been required. Based on Administration assumptions, in the 1989 budget a $9.7 million appropriation would be required.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

PRESERVING OUR DOCUMENTARY HERITAGE: REAUTHORIZATION OF THE GRANT PROGRAMS OF THE NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

> "Time and accident are committing daily havoc on the originals deposited in our public offices. The late war has done the work of centuries in this business. The lost cannot be recovered; but let us save what remains: not by vaults and locks which fence them from the public eye and use, in consigning them to the waste of time, but by such a multiplication of copies, as shall place them beyond the reach of accident."
> --Thomas Jefferson, 1791.

> "I have a great hope for the children of America, that they too will read the works of Madison and Monroe and Washington and Jefferson and Adams and Hamilton. For in their letters to each other and in their essays, in their arguments and in their opinions, all so passionately stated, the image of an age can be discerned. It is the image of our great nation, the United States of America."
> --Ronald Reagan, 1985

Two centuries separate them. And yet, the sentiment is the same--an abiding respect for history, for the lessons it teaches, for the legacy of the written record. The documentary heritage of the United States, they assert, must be preserved. During this period of the Bicentennial of the Constitution, all of us are more acutely aware of our nation's history. We begin to share a greater appreciation of the profound importance of preserving and making available for study the records illustrating that history--from such basic documents as the Constitution itself to the papers of individuals and institutions whose written record reveals much to us about our past. It is to this charge--to save the documentary heritage of the United States--that the National Historical Publications and Records Commission is committed. As we begin to celebrate the Bicentennial years, the work of the NHPRC remains at the center of this national effort to preserve our written heritage. The Commission's work must be continued and funded at a level consistent with the immense tasks before it. The call is for its reauthorization by the Congress for the next five years at a level not less than $10 million a year.

Since the beginnings of its publications program, the NHPRC has promoted those projects it considers the most authoritative and lasting, such editions as the papers of Jefferson, Adams, Madison, Franklin, and Hamilton, the Documentary History of the Ratification of the Constitution, and the Documentary History of the First Federal Congress. Not only historians and genealogists but all those interested in America's history are now beginning to have access to these important documentary materials, collected from many sources, published under rigorously objective editing standards. Not only the papers of the Founding Fathers are being preserved and published but materials from many facets of the American experience--the work of reformers and industrialists, the genius of scientists, architects, and artis' the achievements of presidents and statesmen, the challenges of immigrants and ex-slaves marking out new lives.

Of equal importance is the Commission's records program which provides support for projects to preserve and make accessible historical documents in imminent danger of destruction. In abandoned warehouses and musty basements important records lie unused and forgotten, in varying stages of decay. They document a broad range of human activity. Commission grants ensure that these records are not lost forever. The Commission helps cities and towns across the country to initiate new archival programs where they never before existed; it aids existing programs in advanced archival techniques; it supports the training of archivists.

But even with the notable strides made by the Commission in recent years, it faces mountainous challenges ahead. Many of the approximately 45 ongoing publications projects are plagued with budgetary dilemmas, their editors forced each year to search frantically for funds necessary to keep staffs intact. The Commission needs approximately $3.4 million a year to provide a relatively sound financial base for such major editions as the Jefferson Papers and First Federal Congress project. The Commission also needs at least $1 million a year to support worthy new documentary projects. From the legal papers of Abraham Lincoln to the papers of Robert Taft, Eleanor Roosevelt, and William Allen White, these editions will make a valuable contribution to the nation's documentary record.

In many states, historical records preservation plans have been tabled until monies can be found; the records, meanwhile, further deteriorate. Valuable historical photograph collections go unprocessed. Studies documenting the needs for better city and state records management programs are filed away. In FY 1986 the Commission made 58 grants totaling $2 million in support of archival programs across the country. But it had received requests totaling $6.4 million. The Commission had to cut severely many of the grant requests and turn down others because of the stringent budget situation.

The Commission has an active network of state boards that act as review panels and administrators of statewide records projects. At the states' suggestion, the NHPRC has invited boards to compete for regrant funds to be used for projects of special importance in the states, including an effort to launch records conservation work. The Commission desperately needs an additional $5.6 million for grants to attack the nation's records problems.

The Commission must increase support of its program to assist university and other nonprofit presses in publishing the works it sponsors. In addition, in order to help maintain high professional standards in the fields of archives and history, the Commission must continue to support its fellowship program and other educational activities. Funding for these programs is included in the figures for the publications and records programs above.

The Commission labors with a grants budget inadequate to meet these pressing needs. Modest Commission grants have stimulated financial support from sponsoring institutions, foundations and corporations, and private individuals. Indeed, Commission dollars have been more than matched by support from the private sector. But the Commission needs an increased base of support from which to work. The current $4 million appropriation leaves too many valuable projects underfunded or not funded at all.

The call for national action comes from many quarters--archivists, manuscript curators, jurists, state records officers, historians, editors, publishers, librarians, genealogists, teachers. The call is for an authorization of $10 million per year for the next five years. With this increased funding the Commission will be in a better position to deal forcefully with the critical problems it faces and to encourage others to join in a national effort.

As a nation we are paying too great a price for our inaction. Thomas Jefferson believed that one of the richest benefits of a free society is its documentary record. James Madison, one of the principal architects of the Constitution, agreed. "The right of freely examining public characters and measures and of free communication thereon," Madison wrote, "is the only effectual guardian of every other right." Through all of its work, the National Historical Publications and Records Commission is committed to safeguarding America's documentary heritage. As we celebrate the Bicentennial we can leave no greater historical legacy than an increased commitment to save our written past.

STATEMENT OF JOEL T. THOMAS, PRESIDENT, ALLIANCE OF NONPROFIT MAILERS

Senator DECONCINI. We will now call a panel of Douglas Bennet, Sue Richmond, and Joel Thomas, National Public Radio, Public Television, and Alliance of Nonprofit Mailers to forgone.

We are missing Mr. Bennet, but if each of you would summarize your statements in 3 minutes, we would appreciate it.

Go ahead, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Chairman and members of the subcommittee.

My name is Joel Thomas. I am president of the Alliance of Nonprofit Mailers, and general counsel of the National Wildlife Federation. National Public Radio, by the way, is one of our members, so perhaps I can speak partly for them.

With me today, sitting behind me, is Daniel P. Doherty, executive director of the Alliance of Nonprofit Mailers.

We have provided the subcommittee with the current membership list of the Alliance. It is a list, we believe, that makes self-evident the breadth and depth of our members' interest across the broad spectrum of socially beneficial programs and purposes, be they religious, educational, scientific, philanthropic or others, which are accorded reduced postal rates set by law.

The members of the Alliance are deeply appreciative of the postal privileges accorded to them and are especially appreciative, Mr. Chairman, of the support this committee and this subcommittee have given to the nonprofit sector throughout this period of time when demands for public outlays have come up against the need to restrain Federal funding and to get the Nation's deficit under control. We, of the Alliance of Nonprofit Mailers, have tried to be responsible and cooperative in that endeavor. The evidence is in, I believe, that we have had considerable success.

The Alliance is in the happy circumstance today of appearing before you to ask not for more funds for revenue forgone, nor even for the same amount as appropriated for fiscal year 1988, but rather we are here to respectfully request that you provide the Postal Service with a revenue forgone payment of $436,417,000. This is a reduction of more than $80.5 million or 15.5 percent from the amount appropriated for the current fiscal year.

Included with our testimony is a copy of the comments which the Alliance attorneys submitted to the Governors of the U.S. Postal Service during their consideration in March of the Postal Rate Commission's opinion and recommended decision in the recent rate case.

We believe that our document may be of help to those members who wonder why the Governors took the action they did in ordering into effect the so-called full or step 16 rates for preferred rate mail rather than the rates proposed by the Postal Rate Commission.

We did not, in our comments to the Governors, attempt to precisely calculate the level of rates that should be set under law. We did point out that the appropriation shortfall clearly would be much less than the 21 percent assumed by the Postal Rate Commission so that the imposition of its recommended rates for nonprofit and other preferred rate mailers would have for fiscal year 1988 produced a total revenue to the Postal Service substantially in excess of the ceiling imposed by the authorizing legislation.

As it happens, the Governors found that there was no failure of appropriation and, thus, no call to implement rates above the authorized full rates, which the Commission had set forth in its recommended decision.

The recent return of preferred rates to the so-called full or step 16 level, at which they cover their full attributable costs, primarily results from the enactment of the equal markup method of calculating the revenue forgone requirement. That amendment, which took effect with the new rate schedule on April 3, lowers the revenue forgone program's impact on the Federal budget by eliminating a hidden subsidy to the Postal Service that was cited by the Alliance's economist, John Haldi, in testimony during the 1984 postal rate case.

Dr. Haldi proposed the equal markup method of calculating the revenue forgone requirement during the congressionally mandated Rate Commission study in 1986. The method was enacted as part of the fiscal year 1987 Budget Reconciliation Act.

The equal markup amendment is what largely accounts for the fact that the fiscal year 1989 revenue forgone requirement is lower, even while the nonprofit sector and other preferred rate mailers, such as community newspapers, classroom publications and libraries, can retain full rates.

Mr. Chairman, as the Postmaster General testified before the committee, the fiscal year 1989 revenue forgone requirement is also reduced because of an adjustment being made for fiscal year volumes, that is a factor of $52.9 million. Without that reduction, the actual revenue forgone estimate for fiscal year 1989 would be $489.4 million, but that is still the current year's level.

We believe that it is important for the committee to note that factor. Future reconciliation adjustments may not always favor the treasury, but consistency would require that the adjustments be made nonetheless, we feel.

To sum up, we are here as representatives of the nonprofit sector to ask not for more but for less, to remind the Congress of our efforts to cooperate through this time of budgetary constraint, and to respectfully urge the subcommittee to approve the appropriation of $436,417,000 to the Postal Service.

PREPARED STATEMENTS

Thank you very much, sir.

Senator DECONCINI. I thank you, Mr. Thomas.

[The statements follow:]

STATEMENT OF JOEL T. THOMAS

Mr. Chairman and Members of the Subcommittee, I am Joel T. Thomas, President of the Alliance of Nonprofit Mailers and General Counsel of the National Wildlife Federation. With me today is Daniel P. Doherty, Executive Director of the Alliance of Nonprofit Mailers.

We have provided the Subcommittee with the current membership list of the Alliance. It is a list that we believe makes self-evident the breadth and depth of our members' interests across a broad spectrum of socially beneficial programs and purposes, be they religious, educational, scientific, philanthropic or others which are accorded reduced postal rates by law. The Alliance of Nonprofit Mailers appreciates that the reduced rates, which are subject to appropriation of Federal funds to compensate the U.S. Postal Service for the revenue forgone, are a privilege.

The members of the Alliance are deeply appreciative of the postal privilege accorded and are especially appreciative, Mr. Chairman, of the support this Committee and this Subcommittee have given to the nonprofit sector through this period of time when demands for public outlays have come up against the need to restrain Federal spending and get the Nation's deficit under control. We of the Alliance of Nonprofit Mailers have tried to be responsible and cooperative in that endeavor. The evidence is in, I believe, that we have had considerable success.

The Alliance is in the happy circumstance today of appearing before you to ask, not for more funds for revenue forgone, nor even for the same amount as appropriated for Fiscal Year 1988. Rather, we are here to respectfully request that you provide the Postal Service with a revenue forgone payment of $436,417,000. That is a reduction of more than $80.5 million, or 15.5 percent, from the amount appropriated for the current fiscal year. Still, it is adequate to fully fund the revenue forgone program at the authorized amount and thereby maintain preferred postal rates at the so-called "full" or Step 16 level, as recently implemented by the Governors of the Postal Service after a 10-month proceeding before the independent Postal Rate Commission.

The rates which have emerged from that lengthy, complicated and adversarial process, and from the Governors' consideration of the Commission's Recommended Decision, represent significant increases above the "full" rates previously applicable to Alliance members and other nonprofit mailers. The basic third-class nonprofit rate, for example, is 13.5 percent higher. And the basic second-class nonprofit mailing, without even an inch of advertising, has been raised more than 13 percent per pound plus 25 percent per piece on the same basis.

As the Subcommittee is aware, preferred rate mailers had, for two full years, been paying rates in excess of so-called "full" rates, so that the recent rate adjustment made effective April 3 resulted in lesser increases (and even small decreases in some cases) for nonprofit mailers when compared with the rates actually in effect prior to the April 3 rate adjustment.

That's all very complicated, Mr. Chairman, as is the entire preferred ratesetting scheme. Congressman Joe Skeen made that point when we appeared before your counterpart House Subcommittee a year ago. As part of our effort to address that problem, our Executive Director wrote an article entitled "A primer on nonprofit postal rates and revenue forgone" for The Nonprofit Times edition of June, 1987. The Alliance undertook to circulate reprints widely on Capitol Hill, as well as among the nonprofit community. I will submit a copy of that article, Mr. Chairman, since it does, even though written a year ago, lay out the process of nonprofit ratemaking, divided, as it is, among three entities: The Congress, The Postal Rate Commission, and the Governors of the Postal Service. It explains why nonprofit and other preferred rates were above so-called "full" rates for two years, and also why the recently-concluded rate case presented an opportunity for the preferred ratepayers to seek a return to Step 16 rates; that is, rates set so as to recover the attributable costs only of eligible mail.

The Alliance did not welcome the Postal Service's rate request of last May. We did see in it, however, an opportunity. We pursued that opportunity effectively, but at what is, for this coalition of nonprofit organizations, considerable cost by actively intervening in the rate case.

Included with our testimony is a copy of the comments the Alliance's attorneys submitted to the Governors of the U.S. Postal Service during their consideration in March of the Postal Rate Commission's Opinion and Recommended Decision in the recent rate case. We believe our document may be of help to those Members who wonder why the Governors took the action they did in ordering into effect so-called "full" rates for preferred rate mail, rather than the rates proposed by the Postal Rate Commission.

While we did not, in our comments to the Governors, attempt to precisely calculate the level of rates that should be set under the law, we did point out that the appropriations shortfall clearly would be much less than the 21 percent assumed by the Rate Commission, so that imposition of its recommended rates for nonprofit and other preferred rate mailers would have, for FY 88, produced total revenues to the Postal Service substantially in excess of the ceiling imposed by the authorizing legislation.

As it happened, the Governors found that there was no failure of appropriation and thus no call for them to implement rates above the authorized "full" rates, which the Commission had set forth in its Recommended Decision.

The explanation, perhaps, should be made in the Governors' words. Their decision of March 22, 1988, at pages 10 and 11, says:

> PREFERRED RATE CATEGORIES
>
> As noted, second-class in-county, nonprofit, science of agriculture, and classroom rates, third-class nonprofit bulk rates, and fourth-class library rate are, by statute, to be set at attributable cost levels; appropriations are authorized for these categories to supplement those preferred rate revenues. If appropriations are not forthcoming, the Act authorizes the Postal Service to adjust those rates upward to recover the revenue shortfall. The Commission has set forth the preferred rate levels at attributable costs in one portion of its Opinion and Recommended Decision, and in another has set forth rates at levels that assume a partial failure of appropriations for fiscal year 1989. The rates we approve under 39 U.S.C. 3625 are the attributable cost (i.e., "full") rates as determined by the Commission. If appropriations fail, in whole or in part in FY 1989, the rates actually charged for these categories will be adjusted as authorized by 39 U.S.C. 3627. The FY 1988 appropriations are sufficient to support the full rates for the remainder of this fiscal year, and accordingly the rates will not be adjusted under 39 U.S.C. 3627 at this time.

The recent return of preferred rates to so-called Step 16 levels, at which they cover their full attributable costs, primarily results from enactment of the "equal markup" method of calculating the revenue forgone requirement. That amendment, which took effect with the new rate schedules on April 3, lowers the revenue forgone program's impact on the Federal budget by eliminating a "hidden subsidy" to the Postal Service that was cited by the Alliance of Nonprofit Mailers' economist John Haldi in testimony during the 1984 postal rate case. Dr. Haldi proposed the "equal markup" method of calculating revenue forgone during the Congressionally-mandated Rate Commission study of 1986. That method was enacted as part of the FY 87 Budget Reconciliation Act. The equal markup amendment is what largely accounts for the fact that the FY 89 revenue forgone requirement is lower, even while the nonprofit sector and other preferred rate mailers, such as community newspapers, classroom publications and libraries, can retain "full" rates.

To sum up, we are here as representatives of the nonprofit sector to ask, not for more but for less, to remind Congress of our efforts to cooperate through this time of budgetary constraint, and to respectfully urge the Subcommittee to approve an appropriation of the $436,417,000 the Postal Service has testified is the required amount of revenue forgone funding for carrying this mail at preferred rates under a long-standing policy set by Congress. Experience tells us that, in the event of any failure of appropriation, the rates charged nonprofit and other preferred ratepayers will rise. That is the way the authorizing legislation works, as our members and other preferred rate mailers have so painfully learned over the past two years.

LETTER FROM SIDLEY & AUSTIN, WASHINGTON, DC

March 14, 1988

Mr. David F. Harris, Secretary
Office of the Board of Governors
United States Postal Service
Room 10300
475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260

Re: Postal Rate Commission Docket No. R87-1,
Postal Rate and Fee Changes, 1987

Dear Mr. Harris:

Pursuant to 39 C.F.R. § 9.2(b)(1), the Alliance of Nonprofit Mailers submits these comments on the Opinion and Recommended Decision served by the Postal Rate Commission on March 4, 1988. The Alliance, a national association of nonprofit organizations whose members rely heavily on second- and third-class nonprofit mail, was an active participant before the Commission in Docket No. R87-1.

The Alliance's comments are limited to a single issue: what rates should nonprofit and other preferred rate mailers actually pay between the effective date of the new rates and the end of Fiscal Year 1988 (September 30, 1988)? As we explain below, the "appropriation" rates calculated by the Commission in Appendix One of its Recommended Decision (e.g., Rate Schedules 202 and 302) substantially exceed the effective rates that properly result from the "full" (Step 16) rates calculated by the Commission (Rec. Decis. at Appendix O) and the continuing appropriation enacted by Congress for the remainder of Fiscal Year 1988. Because the responsibility for setting "appropriation" or effective rate levels is the Governors', not the Commission's, the Alliance respectfully requests that the Governors exercise their responsibility to set effective rates at the levels required by law, not at the levels incorrectly determined by the Commission.

As the Governors are no doubt aware, the rates paid by nonprofit and other reduced rate mailers depend on the actions of three entities: the Commission, Congress, and the Governors. The Commission's responsibility is limited to recommending "full" or "Step 16" rates. For second- and third-class nonprofit mail, such rates may neither exceed nor fall below 100 percent of attributable costs. 39 U.S.C. §§ 3622(b)(3), 3626(a)(1). The "full" or "Step 16" rates recommended by the Commission in the present case appear in Appendix O of the Recommended Decision.

However, the rates actually paid by nonprofit mailers depend on the amounts appropriated by Congress under 39 U.S.C. § 2401(c). If the expected revenue from the applicable "full" or "Step 16" rates plus the amount appropriated under § 2401(c) falls below the total required by §§ 3621 and 3626, as applicable, then the rates paid by mailers must be raised to make up the shortfall. 39 U.S.C. § 3627. The responsibility for determining the proper level of effective rates rests with the Governors, not the Commission.[1]

In its Recommended Decision, the Commission has purported to calculate "effective" or "appropriations" rates. See Rec. Decis. at App. One (Schedules 202 and 302). However, these rates substantially exceed the level prescribed by the statutory formula. The Commission's calculations appear to assume that: (1) new rates will not become effective until the beginning of June 1988; (2) the regular second- and third-class rates recommended by the Commission have the same coverage ratio as did the corresponding rates requested by the Postal Service in May 1987; and (3) as a result, the continuing appropriation for fiscal year 1988, $517 million, will fall about 21 percent below the level required to hold "effective" rates down to the "full" or "Step 16" level. See Rec. Decis., App. O at 1. Each assumption is clearly incorrect.

First, it now appears that the Governors will make the new rates effective well before June 1, 1988, and possibly as early as April 3, 1988. All other things being equal, an earlier effective date reduces the appropriation needed to maintain a given effective rate level, by triggering an earlier effective date for the new "equal markup" method specified by Congress for calculating the revenue forgone requirement under Pub. L. No. 99-509, T. VI, § 6003(a), (c), Oct. 21, 1986, 100 Stat. 1933, to be codified at 39 U.S.C. § 3626(i).

Second, the coverage ratios recommended by the Commission for the regular rate classes differ considerably from the ratios originally requested by the Postal Service. For example, the Commission has recommended a cost coverage for regular rate third-class mail of 140 percent, 13 percentage points below the coverage ratio requested by the Postal Service. See Rec. Decis., App. G, Sched. 1. All other things being equal, the lower the coverage ratio for a regular rate class, the smaller the appropriation required to maintain the corresponding nonprofit rates at the "full" level.

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[1] The Postal Service affirmed the exclusive jurisdiction of the Governors over determining the level of effective rates in Attachment B to the Service's request for a recommended decision in Docket No. R87-1. In listing proposed effective rates for preferred rate mailers, the Service stated: "No assent to Commission jurisdiction over the calculation of these proposed rates is intended."

Thus, although the $517 million appropriation may not be fully sufficient to hold preferred rates down to their "full" level through the end of Fiscal Year 1988 (September 30, 1988), the shortfall clearly will be much less than 21 percent, and the "effective" preferred rates specified by the statutory formula will be substantially below the levels calculated in Appendix One. Under these circumstances, the Governors have a clear responsibility to set "effective" rates at the levels required by statute, not the levels calculated by the Commission. Adhering to the Commission's calculations would produce total revenues (i.e., postage plus appropriations) for the preferred rate subclasses substantially in excess of the ceiling imposed by 39 U.S.C. §§ 3621 and 3626(i)(2). [2]

Setting effective rates independently of the Commission's calculations, while accepting the "full" or "Step 16" rates determined by the Commission, would not intrude on the Commission's proper jurisdiction. Because the Commission's authority over preferred rates is limited to determining "full" or "Step 16" rates, the Commission's calculation of "effective" or "appropriations" rates must be treated as mere dictum, not binding on the Governors.

Respectfully submitted,

David M. Levy
Lee M. Straus

Counsel for Alliance
of Nonprofit Mailers

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[2] Section 3621 provides, in relevant part, that "[p]ostal rates and fees shall provide sufficient revenues so that the total estimated income and appropriations to the Postal Service will equal as nearly as practicable total estimated costs of the Postal Service." Section 3626(i)(2) in turn defines these "total costs" as the combination of postage and appropriations that produces the same coverage ratio for a preferred rate subclass as postage alone provides for the corresponding regular rate subclass.

NONPROFIT MEMBERS

APRIL, 1988

ALSAC - St. Jude Children's Research Hospital
American Arts Alliance
American Association for Counseling and Development
American Association for the Advancement of Science
American Association of Individual Investors
American Association of Museums
American Association of Retired Persons
American Cancer Society
American College of Sports Medicine
American Council on Education
American Diabetes Association
American Economic Association
American Heart Association
American Institute of Architects
American Institute of Certified Public Accountants
American Library Association
American Lung Association
American Management Association
American Medical Association
American Planning Association
American Red Cross
AMVETS National Service Foundation
Arthritis Foundation, National Office
Association of the U.S. Army
Battelle Seminars Programs
Boysville of Michigan, Inc.
Boys Clubs of America
Buckner Baptist Benevolences
Camp Fire, Inc.
Cancer Care, Inc.
CARE
Christian Children's Fund
Consumers Union of the U.S., Inc.
Cystic Fibrosis Foundation
Deafness Research Foundation
Denver Art Museum
Disabled American Veterans
Educational Press Association of America
First Assembly of God Church, Inc.
Foundation for Christian Living
Foundation for National Progress (Mother Jones)
General Conference of Seventh-day Adventists
Guideposts Associates, Inc.
Hazelden Foundation
Holy Land Christian Mission, Int'l.
International & American Association for Dental Research
International Association of Fire Fighters (AFL-CIO)
International Society for Optical Engineering (SPIE)
Jewish Braille Institute of America, Inc.
Jewish National Fund
Juvenile Diabetes Foundation
Little City Foundation
Loyal Order of Moose
March of Dimes Birth Defects Foundation
National Association for Sickle Cell Disease, Inc.
National Association for the Advancement of Colored People
National Association of Public Television Stations

National Audubon Society
National Catholic Development Conference
National Easter Seal Society
National Farmers Union
National Jewish Center for Immunology and Respiratory Medicine
National Multiple Sclerosis Society
National Parkinson Foundation
National Public Radio
National Rural Electric Cooperative Association
National Society to Prevent Blindness
National Trust for Historic Preservation
National Wildlife Federation
Natural Resources Defense Council
Navy League of the U.S.
New York Society of Certified Public Accountants
Optical Society of America
Paralyzed Veterans of America
People for the American Way
Plainedge Public Library
RP Foundation Fighting Blindness
Salvation Army
Save the Children Federation
Sierra Magazine
Society of American Military Engineers
Society of Automotive Engineers
United Cerebral Palsy Associations, Inc.
Volunteer: The National Center
World Wildlife Fund/The Conservation Foundation
Young Men & Young Women's Hebrew Association
YMCA of the USA
YWCA of the USA

Established in 1980, the Alliance of Nonprofit Mailers is the leading national coalition seeking to stabilize nonprofit postal rates and protect nonprofits from detrimental changes in postal regulations. Alliance members rely on the mails to raise funds, solicit members, and disseminate information. Member organizations represent more than 43 million volunteers and members and have over 86,000 chapters and affiliated groups throughout the nation. Membership is open to all nonprofit organizations interested in working toward reasonable and stable nonprofit mail rates.

STATEMENT OF DOUGLAS J. BENNET

Mr. Chairman, National Public Radio, on behalf of its over 300 member stations, appreciates this opportunity to testify in support of an appropriation for the postal revenue forgone subsidy of $436.4 million for FY 1989.

We are proud of the record National Public Radio and its member stations have built over the past 20 years in carrying out the mission of the Public Broadcasting Act to provide quality, alternative radio programming. Our member stations serve over 11 million listeners per week. NPR and its member stations provide a combination of distinguished national news and information and performance programming, including ALL THINGS CONSIDERED, MORNING EDITION, and PERFORMANCE TODAY, as well as local programming aimed at meeting the needs of particular communities.

Public radio is a remarkable partnership of federal, state and local governments, universities, foundations, corporations and individual listeners, all acting together to support quality programming which would not otherwise be available in our country. Each year our stations, organized as non-profit entities, must start over in their fundraising efforts. Public radio's support is now about half private and half public. About 15% of an average station's budget comes from the federal government. **In FY 1986, close to one million individual listeners voluntarily contributed $46 million, 20 per cent of public radio's revenue, to their local stations.** Listeners have now become our largest single source of support.

Developing and keeping listener support is, in large part, dependent on reasonable non-profit mail rates. Stations use second class mail to send out their program guides, which are essential to informing listeners about public radio offerings, since virtually no newspaper now carries radio program listings. Stations use third class mail to carry out development efforts, both as a follow-up to on-air fundraising, and increasingly, as targeted direct mail solicitations to find new members, and to keep old members. **In 1986, NPR member stations sent an average of 95,593 pieces of second and third class mail.** Some stations sent over 1 million pieces. The average station spent $14,000 on second and third class mail that year; one reported spending $312,000.

Although there was a recent decrease in some categories of third class non-profit rates as a result of the recent rate hearings, stations are still recovering from 1986, when non-profit rates increased twice -- by a total of over 40%. The impact on public radio station budgets was severe -- in many cases it increased postal expenses by thousands of dollars.

A 1987 survey of NPR member stations showed that the 1986 increases resulted in one of two things for most stations: either the increased mailing costs took money away from other budget areas of the station, most significantly, programming; or the increased costs adversely affected the station's fundraising efforts.

Other stations dealt with the increases by cutting down -- in some cases, cutting in half -- the number of pages in their program guides in order to fit the cost into their budget. Others decreased program guide circulation. Many survey respondents noted that their fundraising ratio between dollar spent and dollar raised had narrowed.

Perhaps most disturbing is the fact that increased postal costs have also had an adverse effect on the quality of programming stations are able to offer. Often local news and cultural programming costs are the first to be trimmed, since this is the area over which station managers have the most direct control.

An increase in non-profit third-class rates on top of the increase in first class rates just put in place by the postal service would put public radio stations in much the same situation they were in with the 40% increase in 1986. If revenue forgone were not funded and non-profit organizations were forced to pay commercial rates, their third class mailing costs would nearly double.

In the recent rate case non-profit mailers convinced the Board of Governors of the US Postal Service to adopt structural changes which reduce the amount needed to meet the revenue forgone requirements. A $436.4 dollar appropriation is all that is needed to maintain rates at current levels. That is $80.6 million less than the $517 million Congress appropriated for FY 1988.

In summary, Mr. Chairman, I would like to say that NPR and its member stations are aware of the tight budget constraints under which the subcommittee is operating. However, it is rare for a program to need less funds than in a previous year. I firmly believe that the revenue forgone postal subsidy, which allows non-profit entities in general, and public radio stations in particular, to do effective work in bringing services to their local communities, is a worthwhile federal commitment. I urge the committee to support the subsidy at $436.4 million for FY 1989.

STATEMENT OF SUE RICHMOND, VICE PRESIDENT FOR MEMBERSHIP, WETA, PUBLIC TELEVISION

Senator DeConcini. Ms. Richmond.

Ms. Richmond. Good morning, and thank you for having us here. We appreciate your support of the subsidies of nonprofit mailers, it has been vital to our success. I don't have to explain public television to you. You understand it and you know it well.

I did want to bring up the fact that, as you know, we have a very strong commitment to the community and programming for the needs of our community is what we care most about. In the month of April, which was the Month of the Child, we aired a tremendous number of programs that dealt with the education and care of children in this area. This poster kind of illustrates the number of programs we devoted to this.

Senator DeConcini, you and Mrs. DeConcini were very helpful in this, and Mrs. DeConcini was very involved with these projects, and I hope that you will thank her for her work in this area.

Public television is the only nonendowed educational institution in the country. As a result, we have had to rely very heavily on individual support from families and single people in this area. The postal subsidies that have been available to us in the past have made that possible.

We use the mail for every source of fundraising that we do. While you may see pledge drives on the air asking for your pledge of support, the mail is used to generate that revenue into the station. Direct mail, acquisition mail, renewals of member support is absolutely essential to the running of our station.

Some 57 percent of our operating budget is handled through membership contributions, and almost all of that is brought in through the mail. Over $8 million a year is generated for the support of our local, WETA, and 90 percent of that comes in through the mail.

All of our fundraising, while done through the mail, takes advantage of the postal discounts, and also most stations across the country have a program guide that they use to get out information about programs to their members and to other members of the community. They also use the mail to send literature about the programs.

As you can imagine, in a station where a budget is as tight as ours, we don't have a lot of money for advertising. These educational materials and programs promoting materials are really essential to getting the word out about programming.

Like most sophisticated mailers in this area, we do take advantage of all the different levels of discount available to us. In the recent postal changes for nonprofit mailers, it became much more advantageous to mail at the carrier route level, and more than 75 percent of our mail goes out at that highest discounted level.

While I can talk about the expense of mailing and how increased rates do effect how much money we have to put into programming, I thought I would also mention that since we are so dependent on the mail, the other side of that is the efficiency of the post office.

We had difficulty in the last year in dealing with the slow and erratic delivery of mail. Because of the tremendous reliance we have on the mail for funding the station, and the amount of money we have to raise, we have a campaign just about every month to go out and raise funds to come to the station for support of programming. When those mails are delayed and we can't rely on the constant flow of revenue from those campaigns, it creates a terrible cash-flow problem at the station.

We are located in Arlington and we use the Merrifield Post Office, the bulk mail facility at Merrifield. For years, we have been extremely pleased with that performance, but over the last year, as you probably read, there have been a number of articles on the problems with increased volume going through that postal facility and decreased efficiency. We have used at other bulk mail facilities, and right now we actually use the one in southern Maryland because sometimes we can get better delivery out of there.

When we find that that efficiency is cut down, we end up spending more time and money on followup through the post office to get our mail delivered than we ever have before. Since I actually am in there in the trenches with the post office, trying to get the mail delivered, I thought that I should bring that up today and explain to you how difficult that has been.

In direct marketing, many of us have used a formula, and perhaps you have used this in some of your campaign funding. Usually, after mail goes out, there is about a 2-week period when you start getting returns. In about 2 weeks, you can pretty much tell what that campaign is going to do. For years, we used that formula, but we can't use it any more because our mail is delivered to erratically that in 2 weeks you can't really tell if that is going to be the total.

Usually, you can double the revenue total after 2 weeks, but we can't do that any more because, even though we are a local mailer, our mail isn't getting delivered in 2 weeks, in 1 week, or sometimes even 4 weeks. So it becomes much more difficult to plan on our lives and plan our cash-flow.

PREPARED STATEMENT

Thank you for allowing us to come here today. If you have any questions, I would be delighted to answer them.

[The statement follows:]

STATEMENT OF SUSAN RICHMOND

Summary

The nation's public television and radio stations depend on the postal service to augment their programming and services to their communities. All non-profit, non-commercial entities, these stations utilize second, third, and fourth class non-profit postal rates to help fulfill their mission to provide, free of charge, important educational, cultural, and informational programs to the nation's homes and classrooms. Program guides, fundraising solicitations, and taped and printed educational materials are all sent by public television stations using the non-profit federal postal subsidy.

If the revenue foregone postal subsidy is phased out entirely, as the Administration proposes in its FY1989 budget, our stations would face a 50% increase in their total postal costs, and untold escalating costs in the years to come. The estimated $7 million that the stations would have to commit to increased postal bills would likely result in cuts in their local or national programming and educational services.

Lower mail costs key to fundraising success

Public television stations nationwide rely heavily on contributions from individual viewers and families to support their programs. The support from these members or subscribers continues to be the fastest growing sector of public television's income. Between 1979 and 1986, public television's total income from subscriptions has more than doubled, now comprising the largest share of support. Over 22% of public television's operating funds, or nearly $200 million, comes from these individual contributions.

Over the last several years, public television stations have reported record results for their fundraising "festivals" in terms of the total number of viewer pledges, total dollars pledged, and the value of the average contribution. These record levels of support have been achieved despite the reduction of on-air fundraising hours by some stations in response to viewer and critical request.

Many stations in recent years have cut back on the number of "pledge breaks" on the air if goals attained by direct mail solicitations for new supporters are met early in the fundraising drive. This has meant, and will continue to mean, a growing reliance by public television stations on reasonable second and third class non-profit postal rates for fundraising purposes.

The fundraising process does not end when the pledge phone rings. While on-air fundraising is recognized consistently as the best means to attract new members to individual stations, the fundraising effort seen on the air must be accompanied by consistent follow-up through the mails to retain current members. In FY1988, public television stations expect to spend an estimated $4.8 million on solicitation mail on about 57 million letters and follow-up materials mailed at the third class non-profit rates.

Public television stations use direct mail fundraising to target potential donors within their own regular television coverage areas -- usually about a 50-mile radius. One-fifth of all the new subscribers to public television contribute in response to these letters.

Dramatic increases in postal rates that public stations large and small have swallowed in the past several years have caused serious problems. Fluctuations in postal rates make it difficult for fundraisers to plan their budgets and activities. In non-urban areas, rate increases do not "pay for themselves" with more successful responses. Postal cost increases usually translate into reductions of funds available for other activities.

Reasonable mail rates are crucial for viewer information

An important part of fulfilling federal mandate and maintaining viewer support for public television is the mailing of station program magazines and viewer listing guides. These guides are the primary non-broadcast means of keeping viewers informed, as well as of meeting the requirements of the Public Broadcasting Act of 1967 to develop public awareness of public telecommunications services.

Public television stations mail over 60 million guides to viewers annually at a cost in postage of about $6 million. Increases in second class postage rates have caused a number of stations to switch to third class mail for their monthly program information guides. And although less expensive, third class mail is less reliable for the delivery of such time-sensitive material. The stations make a sacrifice either way -- they pay more and make adjustments elsewhere or take the lower rate and hope for timely delivery.

Public television stations are also heavy users of fourth class mail, sending virtually thousands of audio and video tapes and printed educational materials to schools and to other stations. Over 200 public television stations provide in-school instructional programming on the elementary and secondary levels. Nearly 600,000 teachers annually receive necessary schedules, teacher guides, and instructional television newsletters sent at the fourth class rate. Overall, we estimate that over four million mailings are affected by fourth class rate increases, adding another $3.8 million cost to our total.

The total public television system's postal figures are devastating enough, but taken on a station-by-station basis, what may seem like a small amount of money represents programs, personnel, and the overall excellence that each station wishes to continue. Maryland Public Television (MPT) expects to spend nearly $65,000 this year on postage for materials sent at non-profit mail rates. MPT sends 55,000 program guides to its members monthly at a total yearly cost of $55,000. Fundraising solicitations sent at 2nd class rates will cost the station $10,000 for 135,000 pieces.

Here in the Washington area, WHMM/Channel 32 spends $7,200 per year to mail out at third class, non-profit rates, its monthly program guides to 7,000 viewers. In addition, the station sends approximately 15,000 fundraising solicitations per year. Any increase in these costs would definitely harm the station's ability to maintain contact with its viewers.

WETA-TV/Channel 26 in Washington, also depends heavily on the mail at non-profit rates to sustain their operations. Membership contributions account for 57% of their operating budget. Of these contributors, 75% are reached through the mails and 25% through on-air solicitations. WETA's current membership is 145,000 and each member receives monthly copies of the WETA magazine containing the station's television and radio program listings. WETA's costs in postage for these mailings totals over $460,200. WETA is the third largest public television production station. WETA can produce programs for the rest of the nation only because of the strong local support they receive, particularly through membership contributions.

Another heavy user of the mails in WNET/New York, which last year sent out over 7.5 million pieces of direct mail fundraising letters. The unpredictability as well as the frequency and size of recent postal increases has hindered fundraising efforts. The lead time on their large scale mailings is considerable, and often the important postage cost element is unknown and subject to change almost up to the date of mailing.

For the smaller non-commercial stations, the total postal costs may not be as great, but the effect of increasing them is just as difficult. KRWG/Las Cruces, New Mexico, this year will spend less than $2,000 on program guide and fundraising mail. The station has never done any targeted, direct mail campaigns, but is looking into direct mail as a fundraising option to pursue in the next few years. Certainly, the price of their postage over what they have already committed will be a factor in determining how the station plans to proceed.

Conclusion

We would ask this Subcommittee to do all in its power to recognize the widespread harm that would result if the non-profit mail subsidy were eliminated. Public television stations would be among the countless organizations that would suffer in their fundraising efforts and their day-to-day business. These non-commercial stations have made great strides to encourage more and larger contributions from the public they serve, and any move to restrict their fundraising activities would undercut further growth.

We urge the Subcommittee to appropriate funds sufficient to maintain these postal rates at least at current levels, and thank you for your efforts in the past several years to deny the Administration's zero fund request.

Public Television Stations
NAPTS Estimated 1988 Costs for Non-Profit Mailings

ITEM	NUMBER OF PIECES	4/1/88 POSTAGE RATE ($)	TOTAL $
Program Guides at 2nd Class,	2,630,700 Subscribers x 12 issues/year = 31.57 million mailings	av. rate $.118	$3,725,071
Program Guides at 3rd Class	2,364,300 subscribers x 12 issues/year = 28.37 million mailings	av. rate $.084	$2,383,214
Fund Raising Letters & Follow-Ups at Bulk, Non-Profit	57.05 million mailings	av. rate $.084	$4,792,536
Teacher Guides, Tapes and other materials at 4th Class rates	4.3 million pieces	av. rate $.90	$3,870,000
TOTAL	121.29 million pieces		$14,770,821

Senator DeConcini. Ms. Richmond, thank you very much. You have great support up here for public television and public radio, and I think that will stay. I know that my friend from New Mexico, when he was chairman of the Budget Committee, when there were tremendous cuts in this area, he took an awfully bold position, somewhat different from the administration, to keep funding of that. I will never forget that.

The things that you mention about the post office are of interest to us, and if you would work with Mr. Mills, we would be glad to attempt to put together a letter to see if we can't be of some assistance.

Ms. Richmond. I will be happy to be of assistance.

Senator DeConcini. Thank you, Mr. Thomas. I have no questions.

Senator Domenici. Could I ask one question?

Senator DeConcini. Senator Domenici.

Senator Domenici. You commented about response time for direct mail, solicitation-type mail.

Ms. Richmond. Right.

Senator Domenici. Do you do any work, or do your experts do any work in analyzing whether the response time, and even the response, has been adversely affected by the proliferation of direct mail?

I hear from constituents, so I think there is a problem. They are getting so much that much of it is just not getting opened. They just notice the envelope and they are throwing it away.

Ms. Richmond. There is no doubt that the more people are using the mail, there is a lot more competition out there. I would say that those of us who have used the mails for a long time have had to learn to be better at it. We just have to be better at it in order to get a better response and make it all cost efficient.

People use it because it is very successful for them, so I don't think there is going to be a reduction of people using the mails. People are using telemarketing and other forms of fund raising to support their organization. I get letters all the time from people who say, there is so much mail, I pick and choose what I read any more.

Senator Domenici. Thank you, Mr. Chairman.

Senator DeConcini. Thank you. We appreciate your testimony.

STATEMENT OF SAMUEL J. WALSH, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE COUNCIL OF THE AMERICAN LEGION

Senator DeConcini. We will now hear from Samuel Walsh, assistant director of the National Legislative Council of the American Legion. Mr. Walsh, if you would summarize your testimony please.

Mr. Walsh. Good morning, Mr. Chairman.

I came to discuss two issues, the Customs Service and the revenue forgone. I subsequently reduced my remarks down to discuss simply the Customs Service.

The U.S. Customs Service has been able to continue its efforts to stop the flow of illegal drugs across our borders due in large part to the work of this subcommittee in restoring funds recommended for reduction by the Office of Management and Budget.

The administration's fiscal year 1989 budget proposal suggests that they, too, have come to realize that funding for the Customs Service is critical to our Nation's efforts to not only interdict the flow of drugs into the United States, but to control our borders as well.

As you are well aware, illegal drugs threaten our lives, property, and more tragically our Nation's youth. Illegal drug trade tears at the very fabric of our Nation. It is estimated that from 60 to 70 percent of all U.S. criminal activity is related in some way to drugs. This subcommittee's role in providing the leadership to promote and fund the antidrug activities of the U.S. Customs has been commendable.

With your continued leadership and support, the flow of illegal drugs into our country can and will be dramatically curtailed. The American Legion urges you and your colleagues to continue these efforts to insure that adequate funding for U.S. Customs Service is continued.

Mr. Chairman, this concludes our testimony.

Senator DECONCINI. Thank you very much, Mr. Walsh. We appreciate the American Legion's strong position on the drug interdiction and education program.

I would like to suggest that your organization take a look at S. 2205, the omnibus drug bill, introduced by a number of us here, 71 as a matter of fact, and if you would earn to make any observations. We, of course, would welcome the American Legion's support of that legislation. It is bipartisan, and it adds money where you are talking about, and many other areas. We would appreciate any response that you have.

Mr. WALSH. Let us review it, sir, and submit something for the record.

Senator DECONCINI. Thank you very much, Mr. Walsh.

[The statement follows:]

STATEMENT OF SAMUEL J. WALSH

Mr. Chairman and distinguished members of the Subcommittee on Treasury, Postal Service and General Government:

The American Legion is pleased to be able to again present its views and recommendations on the funding for the U.S. Customs Service and the Revenue Foregone postal subsidy. This is the sixth time in as many years that we have appeared before this subcommittee on the subject of postal appropriations and the third time that the Legion has supported increased appropriations for the U.S. Customs Service in order to step up its drug interdiction activities. This subcommittee's work in both of these areas has been admirable.

The U.S. Customs Service has been able to continue its efforts to stop the flow of illegal drugs across our borders due in large part to the work of this subcommittee in restoring funds recommended for reduction by the Office of Management and Budget (OMB). The Administration's fiscal year 1989 budget proposal suggests that they have come to realize that funding for the Customs Service is critical to our Nation's efforts to not only interdict the flow of drugs into the U.S. but to control our borders as well.

As you are well aware, illegal drugs threaten our lives, property, and more tragically our Nation's youth. Illegal drug trade tears at the very fabric of our Nation. It is estimated that from 60 to 70 percent of all U.S. criminal activity is related in some way to drugs. This sub committee's role in providing the leadership to promote and fund antidrug activities of the U.S. Customs Service has been commendable. With your continued leadership and support, the flow of illegal drugs into our country can and will be dramatically curtailed. The American Legion urges you and your colleagues to continue these efforts to insure that adequate funding for the U.S. Customs Service is continued.

In addressing the Revenue Foregone subsidy, The American

Legion would like to thank the members of the subcommittee for their continued support in funding the postal subsidy for nonprofit activities. As you know, the Administration has sought to delete all funding for the Revenue Foregone postal subsidy except for a relatively small sum to preserve free mailings for the blind and the handicapped. While the Legion supports free mail for the blind and the handicapped and considers it an important element of the subsidy, it also recognizes that many nonprofit organizations provide services to the American public of equal importance.

A wide range of community-based programs, which assist communities and Americans in need, are sponsored by these nonprofit organizations. The American Legion alone contributes millions of dollars annually in ways most citizens are unaware. For example, we sponsor nearly 30,000 young men each year in our Boys State program, some 3,600 youth baseball teams, 3,000 Boy Scout troops and 10,000 young men and women in oratorical contests. In addition, The American Legion has awarded more than 3,700 scholarships this past year and assisted some 350,000 veterans in representation on rehabilitation cases. Legionaires donated more than 400,000 pints of blood to the Red Cross Blood Bank and contributed over 1 million hours of volunteer service to VA hospitals. The American Legion Auxiliary donated an additional 7 million hours of volunteer effort and reinvested more than $30 million dollars in America.

The American Legion is proud of its contributions to our society, but we represent just one nonprofit organization contributing to communities. The benefits accruing to America as a result of the combined programs and activities of the nonprofits are incalculable but most certainly exceed the cost of the Revenue Foregone appropriation. It seems to us ironic that now, as nonprofit organizations are being asked to provide even more community-based support services, we are also being asked to allocate more of our limited resources to simply communicate through the mails. The U.S. Postal Service is our lifeline--increased costs of mailing can only result in a reduced ability to communicate, thereby decreasing our capacity to continue to provide even existing services.

There are three basic alternatives to be considered in debating the Revenue Foregone appropriation. One would call for 100% absorption of postal costs by the nonprofits, a proposal which would in all likelihood dramatically reduce these organizations' ability to serve their communities. A second would require that nonprofits be subsidized by all other mailers, a concept which ignores the nonprofits contributions to our Nation's citizenry and indeed, the Federal Government itself. And the third, continued funding of the appropriation in recognition of the cost/benefit ratio to both community well being and the taxpayer.

Mr. Chairman, The American Legion strongly urges you and your colleagues to continue adequate funding of the Revenue Foregone appropriation to ensure the continued conduct of the numerous benefit programs provided America by public-spirited groups.

Mr. Chairman, that concludes our testimony. I'll be happy to respond to any questions you may have.

STATEMENT OF PETER STRAUSS, VICE PRESIDENT AND MEMBER, BOARD OF DIRECTORS, NATIONAL ASSOCIATION OF TOBACCO DISTRIBUTORS

Senator DECONCINI. We now go to Peter Strauss, National Association of Tobacco Distributors. If you would summarize your testimony, we will put the full statement in the record, Mr. Strauss.

Mr. STRAUSS. Thank you, Mr. Chairman.

The National Association of Tobacco Distributors represents over 570 corporate wholesaler-distributors members, with 740 distribution outlets around the country, as well as 230 manufacturer and supplier associates. Combined, our 12,000 salesmen canvass and supply almost 1.5 million retail outlets selling tobacco, confectionery, and other products. The membership of the National Association of Tobacco Distributors covers all 50 States, and we market goods with an annual wholesale value of over $16 billion.

In each of the past 5 years, a member of our organization has testified before both the House and Senate Appropriations Committees to discuss the funding of the law enforcement program for tobacco products within the Bureau of Alcohol, Tobacco and Firearms.

In each of these 5 years, this testimony has been in direct response to the fact that the administration's budget has eliminated the law enforcement program for tobacco products. In each of these 5 years, Congress has exercised its better judgment by funding this important program.

In spite of Congress's clear and consistent recognition of the importance of an enforcement program against cigarette tax evasion and interstate contrabond, the administration has again submitted a budget with no funding for this program in fiscal year 1989. Therefore, my organization is once again before you to oppose the elimination of this vital law enforcement program.

The program establishes a Federal presence which has for almost 10 years been the sole deterrent against interstate cigarette bootlegging. It has been responsible for a marked decline in this illegal activity since 1979, although by no means its total elimination.

BATF is solely responsible for investigating interstate cigarette tax evasion, and for training State personnel to perform such investigations within their respective States. To strip BATF of its effective tobacco enforcement for fiscal year 1989 would be to unleash once again the rampant illegal interstate cigarette bootlegging to prevalent prior to 1979 when the contraband enforcement program went into effect. It is inconceivable to us that the Congress would act in such a way that the criminal forces would once again gain the upper-hand in a very lucrative illegal trade.

Why is this contraband issue so significant?

Many do not realize the contribution of tobacco excise taxes to our Federal and State governments. In fiscal year 1987, for example, the BATF estimated that the State and local governments alone collected $4.8 billion in tobacco excise taxes.

At the same time, the BATF law enforcement program to ensure payment of these taxes was funded at approximately $3 million. Clearly, excise taxes on tobacco contribute significantly to State and local revenues, as well as the U.S. Treasury, yet less than 1 percent of the funds are allocated for enforcement. It is difficult to find a more efficient revenue preservation system.

A second reason to view the contraband issue with great concern is the potential the bootlegging has to fuel a vast array of criminal activity. Many say bootlegging is a victim-less crime. I would disagree with that assessment because I have seen the victims when they are laid off their jobs in firms engaged in the legal distribution of cigarettes.

However, putting the jobs impact aside for a moment, the characterization of victim-less misses the mark for other reasons. Bootlegging is among the easiest criminal activities to sustain without interstate enforcement, and it is among the most lucrative. Cigarettes are easily converted to cash, and the untraceable millions thereby produced fuel other criminal activies, including drug running, which hardly can be characterized as victim-less.

Why does cigarette smuggling occur?

The circumstances primarily responsible for cigarette smuggling and contraband is the significant difference in cigarette taxes levied among the various States and localities. Over the past several years, the excise tax on cigarettes have increased by large amounts in some States, while increasing very little or not at all in others. This disparity in tax rates encourages the payment of taxes in low-tax State and the sale of the cigarettes in the high-tax area.

An example of this tax differential can be seen in a comparison between Chicago and Kentucky. The total tax for a pack of cigarettes in Chicago is 59 cents, in Kentucky, 19 cents. A bootlegger can make a profit of $4 per carton taxed in Kentucky and sold in Chicago.

Obviously, one State does not have the jurisdictional power to carry out law enforcement investigations in another. Therefore, Federal law enforcement resources must be directed toward these interstate investigations. The administration's position seems to overlook that under our Constitution, the Federal Government has an obligation and the power to regulate commerce among the several States. When trucks are highjacked in St. Louis, MO, and found abandoned in Illinois, it is a case that warrants Federal intervention.

Finally, Mr. Chairman, the 1985 report by the Advisory Commission on Intergovernmental Relations noted that the removal of this Federal enforcement presence could lead to a resurgence of cigarette smuggling. Therefore, the Commission recommended that Congress continue to fund the tobacco enforcement program of the BATF. We believe that this recommendation is as sound today as it was when originally offered.

There is simply no substitute for a Federal role in this deterrent to organized crime and illegal activity. Cutbacks in the program now will only cause greater expenditures in the future a smuggling activities increase.

The removal of BATF in this area is clearly counterproductive. Moreover, once the barriers to interstate bootlegging are removed, it will be difficult, if not impossible, to regain the foothold of enforcement now in effect.

PREPARED STATEMENT

Therefore, we urge the committee to continue funding at last year's level of $469,000. This will allow BATF to fulfill its important responsibilities. This is not the time to reduce this crucial law enforcement function.

Thank you very much.

[The statement follows:]

STATEMENT OF PETER STRAUSS

Mr. Chairman and members of the subcommittee, my name is Peter Strauss, President and CEO of Metropolitan Distribution Services, Inc., Flushing, New York. I am also a Vice President and chairman of the Legislation Committee of the National Association of Tobacco Distributors. Our association represents over 570 corporate wholesaler-distributor members with over 740 distribution outlets, as well as 230 manufacturer and supplier associates whose 12,000 salesmen canvass and supply almost 1.5 million retail outlets selling tobacco products. The membership of the National Association of Tobacco Distributors covers all 50 states and our members market goods with an annual wholesale value of over $16.0 billion.

In each of the past five years, a member of our organization has testified before both the House and Senate Appropriations Committees to discuss the funding of the law enforcement program for tobacco products within the Bureau of Alcohol Tobacco and Firearms (BATF). In each of these five years this testimony has been in direct response to the fact that the Administration's budget has eliminated the law enforcement program for tobacco products. And, in each of these five years, Congress has exercised its better judgment by funding this important program.

In spite of Congress' clear and consistent recognition of the importance of an enforcement program against cigarette tax evasion and interstate contraband, the Administration has again submitted a budget with no funding for this program for FY 1989.

Therefore, my organization is once again before you to oppose the elimination of this vital law enforcement program.

For those who may not be familiar with the actual services provided through the law enforcement program for tobacco products, let me give a brief description. This program is solely responsible for investigating interstate cigarette tax evasion and training state personnel to perform such investigations within their respective states. Another important aspect of this program has been to establish a federal presence as a deterrent. This federal presence has contributed to a marked decline, although by no means the elimination, of cigarette contraband.

To strip BATF of its effective tobacco enforcement for FY 1989 would be to unleash once again the rampant illegal interstate cigarette bootlegging so prevalent prior to 1979 when the contraband enforcement program went into effect. It is inconceivable to us that the Congress would act in such a way that the criminal forces would once again gain the upper hand in a very lucrative illegal trade.

Why is this contraband issue so significant? Many do not realize the contribution of tobacco excise taxes to our federal and state governments. In FY 1987, for example, the BATF estimated that the state and local governments alone collected $4.8 billion in tobacco excise taxes. At the same time, the BATF law enforcement program to ensure payment of these taxes was funded at approximately $3 million. Clearly, excise taxes on tobacco contribute significantly to state and local revenues as well as the U.S. Treasury. Yet, less than one percent of the funds are allocated for enforcement. It is difficult to find a more efficient revenue preservation system.

A second reason to view the contraband issue with great concern is the potential it has to fuel a vast array of criminal activity. Many say bootlegging is a victim-less crime. I would disagree with that assessment because I have seen the victims when they were laid off their jobs in firms engaged in the legal distribution of cigarettes. However, putting the jobs impact aside for a moment, the characterization of victim-less crime misses the mark for other reasons. Bootlegging is among the easiest criminal activities to sustain without interstate enforcement and is among the most lucrative. Cigarettes are easily converted to cash and the untraceable millions thereby produce fuel for other criminal activities including drug running, which hardly can be characterized as victim-less.

Why does cigarette smuggling occur? The circumstances primarily responsible for cigarette smuggling and contraband are the significant difference in cigarette taxes levied among the various states and localities. Over the past several years the excise taxes on cigarettes have increased by large amounts in some states while increasing very little, or not at all, in others. This disparity in tax rates encourages the payment of taxes in the low-state and the sale of the cigarettes in the high-tax area. An example of this tax differential can be seen in a comparison between Chicago and Kentucky. The price of a pack of cigarettes in Chicago includes a 16 cent federal tax, 20 cent state tax, 15 cent city tax and 8 cent county tax. The total tax for a pack of cigarettes is 59 cents in Chicago. In the neighboring state of Kentucky, however, there is levied only a 3 cent state tax and a 16 cent federal tax for a total tax of 19 cents. A bootlegger can make a profit of $4.00 for every carton taxed in Kentucky and sold in Chicago.

This example of tax differentials also brings to light the principal factor which warrants federal tobacco enforcement. Because the most significant differences in taxes occur from state-to-state, it only follows that the bulk of this smuggling occurs in large part from low-excise states to high-excise states. A complete list of state excise taxes is included in my written testimony. Obviously, one state does not have the jurisdictional power to carry out law enforcement investigations in another state. Therefore federal enforcement resources must be directed toward these interstate investigations.

The Administration's budget proposal suggests that the tobacco enforcement program can be borne by the states. But with many states barely able to meet their human resources and social program needs, it is unlikely that they can commit effective resources to tobacco tax enforcement. According to House Budget Committee figures, grants for state and local governments have declined 38 percent in real terms between 1980 and 1989.

Another issue that the Administration's position seem to overlook is that under our Constitution the federal government alone has an obligation and the power to "regulate commerce....among the several States." When trucks are hi-jacked in St. Louis, Missouri and found abandoned in Illinois it is a case that warrants federal intervention.

Finally Mr. Chairman, the 1985 report by the Advisory Commission on Intergovernmental Relations noted that, " the removal of this federal enforcement presence could result in a resurgence of cigarette smuggling." Therefore, the commission recommended that, "Congress continue to fund the tobacco enforcement program of the BATF." We believe this recommendation is as sound today as when it was originally offered. There is simply no substitute for a federal role in this deterrent to organized crime and illegal activity.

Cutbacks in this program now will only cause greater expenditures in the future as smuggling activities increase.

The removal of the BATF activity in this area is clearly counter-productive. Moreover, once the barriers to interstate bootlegging are removed it will be difficult if not impossible to regain the foothold of enforcement now in effect. Such an action is an invitation to open season on the interstate highway system between low and high tax states.

Therefore, we urge the subcommittee to continue funding at last year's level, $4.469 million. This will allow BATF to fulfill its important responsibilities. This is not the time to reduce this crucial law-enforcement function.

Senator DeConcini. Mr. Strauss, thank you. You make an exceptionally convincing case on more enforcement, and I support that.

We have a problem that the administration's position on the record, as you know, is that the States should do it. I guess that we have to do more education with them, to get them to support an increase.

I really think that we are missing the boat as to revenues and to what is legal in this country, and your statement is right on target as far as I am concerned. Thank you very much, sir.

Mr. Strauss. Thank you.

STATEMENT OF M. SIGMUND SHAPIRO, CHAIRMAN, LEGISLATIVE COMMITTEE, NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION

Senator DeConcini. We will now hear from the National Customs Brokers and Forwarders Association of America, Sigmund Shapiro, chairman of the legislative committee.

Good morning, Mr. Shapiro. If you would be so kind as to summarize your statement, we will put the full statement in the record for you.

Mr. Shapiro. I am not going to read any of this.

Senator DeConcini. Would you like to introduce your colleague?

Mr. Shapiro. I am sorry. This is Jon Kent, our Washington area representative.

Senator DeConcini. Jon, we are glad to have you with us.

Mr. Shapiro. The one area I would like to concentrate on for a moment, Mr. Chairman, is No. 6 on page 2, which talks about uneven management resulting in great disparities and lack of uniformity between Customs districts in the examination of merchandise.

Customs has spent over $500 million in automation, and they are supposed to have some measure of uniformity by virtue of that, but unfortunately they don't. As a consequence, importers are shopping ports to see which port makes it easier for them to bring cargo through, and it is working to the detriment of other ports.

Although the computer is supposed to direct the Customs officer to examine merchandise, it can be overriden. When you get down South, or some of the other smaller ports, and the inspector knows the importer and knows what the merchandise is, he doesn't examine it, yet at other ports, it is examined.

This is not for enforcement purposes, and I know of your interest in enforcement and drug interdiction, which we all support. This is regular commercial shipments that are not receiving equal treatment.

Senator DeConcini. Let me ask you a question, because this troubles me. We don't have any argument about drug involvement, and you people have been upfront and very supportive of our efforts, even willing to wait while they do that, if it is based on drugs.

You need to explain something to me. If you have a cargo of textiles, computer chips, or small parts that have to be inventoried or looked at carefully, versus something that is very bulky that comes in, one comes in the Los Angeles Port and another one comes in the Boston Port.

It seems to me, but correct me please, it seems to me that it is going to be unfair or not uniform as to the time that you might have to spend on the Customs inspecting and assessing it, if one port has a history of bringing in those items that legitimately take more time. Am I incorrect?

Mr. SHAPIRO. I am not talking about the amount of time it takes to examine. I talk about the intensity of examination.

The Los Angeles textile may be nonstrategic textile, noncritical, nonquota. We have had it in Baltimore where an importer was bringing industrial gloves that weren't quota. Because they were textiles, they were thrown up on the screen as subject to examination. They never found anything. This is costing the importer a tremendous amount of expense because they move the cargo to the centralized examination station, unload it, put it back. It isn't until we, as brokers, may go to Customs and say, "hey, have a heart, you are not finding anything," that they say, "OK, we will override it now."

An individual inspector is now making a decision. If he knows that importer in the South, for instance, and he says, "I know this man, he's a good ol' boy, he has been bringing in the stuff for a long time, we won't look at it." The man may have the same merchandise coming in in New York where it will get intensive examination. So now you have importers working ports, which is counterproductive.

Senator DECONCINI. That is a personnel problem that you are talking about. The guy who says, "He's a good ol' boy, I've known him for 20 years. I know that he's not lying to me, this is not a quota, I believe it. Every 2 years, I check him and by golly he is right." That is a personnel problem versus the new guy who comes in and does the job, who says, "the book says that I have to look at this stuff."

Mr. SHAPIRO. It is more than that. If the right criteria, with all of the money that Customs has spent on automation, are pumped in every time an examination is made, the system ought to adjust itself.

Senator DECONCINI. I see. You are saying that even the new Customs inspector who comes into Baltimore, who doesn't know the custom brokers and the importers, they could get some assistance by having the uniform criteria come up on their screen or something?

Mr. SHAPIRO. Uniformity within the Customs Service is a golden fleece. It is almost an impossibility. Congress has approached this many times, and I think Senator Packwood has a bill floating around that is going to try to make it more uniform.

Senator DECONCINI. I am going to take a look at that, and see what we can do.

Mr. SHAPIRO. It is very difficult to do, but it would be interesting if this committee could get some concrete information as to uniformity of examination by the Customs Service.

PREPARED STATEMENT

Senator DeConcini. I am going to ask Customs for that, because I am interested for a lot of reasons. One is for you folks, but also for the revenue that can be collected, for the better control that we can have generally, and the upgrading of our inspection capability. I will take a look at that.

Mr. Shapiro. Thank you.

Senator DeConcini. Thank you.

[The statement follows:]

STATEMENT OF M. SIGMUND SHAPIRO

Mr. Chairman, I am M. Sigmund Shapiro, Chairman of the Legislative Committee of the National Customs Brokers and Forwarders Association and President of Samuel Shapiro & Company, Inc. of Baltimore, Maryland. It is a pleasure to appear before the Committee once again and NCBFAA is grateful for the interest and attention that you have shown our concerns. NCBFAA is, of course, the national trade organization for customs brokers and forwarders. Our members serve as coordinators, consolidators and expediters of international trade. As part of our responsibility, we interface directly with Customs as the importer's representative and agent in all matters relating to Customs clearance. A broker has won this niche because importers simply cannot field the myriad of detail that is attendant to the process and that is compounded on a daily basis. And, it is much easier to deal with less than a thousand brokers than with many hundreds of thousands of importers. We are integral to the process and, put in perspective, are the best friends that Customs has. Yet brokers are an independent breed and reserve the right to speak out when constructive criticism is beneficial. We have done so very often over the years, but always with a view to improving an agency that we have admired and respected.

Of late, our criticism has come more frequently, but we hope no less constructively. The issues that we have discussed before this committee are illustrative:

(1) implementation of the "PAIRED" system, where Customs acted in direct violation of their statutory constraints;

(2) resourcing, where Customs has failed to provide necessary manpower to collect the duties and taxes which make this one of the few revenue-positive, profitable agencies of our government;

(3) overreaching, where Customs has fielded new programs and attempted to initiate still more,

even before the earlier start-ups were fully operational;

(4) a preoccupation with the appeal of enforcement to the detriment of efficiently functioning commercial operations;

(5) a view that automation obliterated the need for competent people;

(6) uneven management, resulting in great disparities and a lack of uniformity between Customs districts (notably in examination practices whereby one port may experience significantly higher levels of examination than another, for no explainable reason);

(7) overzealousness in enforcement cases where a more measured, even-handed response would have been commensurate with specific infractions of Customs rules; and

(8) a bureaucratic rigidity in problem-solving that has hurt efforts at cooperative solution-seeking which is in everyone's best interests.

Also on the record before this committee and the authorizing committees is our opposition to customs user fees as a source of revenue. Since its passage three years ago, one problem after another with user fees has arisen. Authorizing committee issues aside, we think this committee should note the huge disparity in matching the funds raised to those expended on commercial operations. In a letter that we would like to enter in the record as an example, the New Orleans Steamship Association reports that New Orleans port "users" provided $27.1 million in user fees for $6.9 million in commercial services. In a word, we are simply not getting a fair return in the form of service.

This year - perhaps the last in the current commissioner's tenure - has been one of reflection and introspection by both Customs and the trading community alike. Its McKinsey report has been a useful exercise, telling us many things that we knew, many conclusions that we agreed with, and many that we did not. For example, NCBFAA applauds Customs for its boldness and initiative in bringing automation to the trading world. The customs brokerage industry has committed itself 100% to the development of an automated commercial system that ties brokers, shippers and carriers to the Customs Service electronically. Brokers have borne the major share of the cost in bringing the Automated Broker Interface (ABI) program to fruition. Yet, at the same time, we understand the corresponding need for earlier and better access to import specialists, the personnel beyond the computer who can guide us through compliance. We agree with McKinsey that this has been a serious shortcoming at Customs and strongly endorse those findings. We have grave reservations however about the viability of McKinsey's "triangular clearance" concept. This process puts importers directly on-line whereby goods entered in one port, to be delivered to a second locus, can be cleared through Customs entries filed at a third. This endorses Customs' view of automation-in-a-vacuum. It ignores the real-world complexities ever present in the business of meeting the regimen of Customs regulations, not to mention the steadily proliferating requirements of agencies like EPA, FDA, USDA and on and on.

We would also like to take this opportunity to commend the Committee for its interest in operational problems that it addressed last year and will review in 1988. Your mandated 15-minute response time has pressed Customs to meet its promise to our industry and process entries with the promptness that should be expected of an automated system. Your Government Accounting Office audit into Centralized Examination Stations will provide you a clinical look at a Customs program which, when completed, will underscore the need to match drafting table concepts with real-world application. We urge the Committee to review the interim, March 30th report and press GAO for completion of a comprehensive evaluation. And, your GAO audits on PAIRED and automation generally, due mid-year, will be of enormous benefit to us, your committee, and ultimately Customs itself. We look forward to reviewing these results with you and making recommendations, as appropriate. Your committee, Mr. Chairman and Members of the Committee, has done an outstanding job in resourcing a substantially under-manned agency and in guiding Customs operations firmly and decisively. NCBFAA hopes to work with you towards comparable improvement in the future.

STATEMENT OF TRAVIS MONTGOMERY, DIRECTOR OF TRADE, PORT AUTHORITY, ON BEHALF OF WESTERN STATES COALITION FOR EFFECTIVE U.S. CUSTOMS SERVICE

Senator DECONCINI. We will now hear from Travis Montgomery, director of trade, the port authority, on behalf of the Western States Coalition for Effective U.S. Customs Service.

Mr. Montgomery, if you would summarize your testimony, we will put your full statement in the record.

Mr. MONTGOMERY. Thank you very much, Mr. Chairman.

I am pleased to be here representing the major west coast ports of Long Beach, Los Angeles, Oakland, Portland, San Diego, San Francisco, Seattle, and Tacoma. I am the director of trade development, as mentioned, for the Port of Long Beach.

I would like to apologize for the testimony that you may have in your hands. As I arrived here from California this morning, I discovered that it was assembled wrong. I changed those that were on the table, and I don't know if Mr. Mills has a properly assembled testimony or not.

Senator DECONCINI. Customs didn't do that?

Mr. MONTGOMERY. No. [Laughter.]

Let me just touch on four very quick area that I think have been touched on this morning that we are concerned with, and they all really relate to staffing as far as we are concerned.

The uniformity of customs issues on the west coast was the reason for the formation of our coalition in the beginning, so that U.S. Customs Service would not be a competitive issue between the ports of the west coast.

We have found that uniformity of hiring practices, as well as those interpretations of Customs regulation, as mentioned by Mr. Shapiro, have had effects on us. We think that the major problem goes back to hiring and staffing levels of U.S. Customs.

Currently, we believe that the 16,200 positions in the Customs' budget, as was put in for fiscal year 1988 and is recommended for fiscal year 1989, is an adequate number, the big problem is getting those bodies on board.

It was interesting to hear this morning the OPM testimony. I can tell you that in our own district, in Los Angeles, which is the largest Customs district in the United States, raising over $3 billion a year, they are still trying to hire 40 positions that were allocated in fiscal year 1987, as well as begin work on the 75 positions that were allocated in fiscal year 1988. That is 100-and-some positions that we don't have filled. If we could get those positions filled——

They tell us that they are running into, they tell us 6- to 8-month to 10-month delays with the Office of Personnel Management in getting people on board, that by the time they go through the laborious hiring process, people after the 8 months say, "I am sorry, I took a job as a private security guard at a buck on hour more." The salary levels, of course, make that a very competitive area. There needs to be some help, and I would certainly urge support of OPM's budget to get them moving a lot faster.

One other area I would like to touch on, we have heard that the law enforcement training facility at Glynco, GA, is having their budget cut back, and that has a direct impact upon how fast, once the Customs agents and inspectors are hired, the training can take place. We would encourage your committee to take a look into the funding of that facility. It all falls into the same area.

PREPARED STATEMENT

With that, you have my testimony. If you have any questions, I would be happy to respond.

[The statement follows:]

STATEMENT OF TRAVIS MONTGOMERY

MR. CHAIRMAN, I AM TRAVIS A. MONTGOMERY, DIRECTOR OF TRADE DEVELOPMENT FOR THE PORT OF LONG BEACH, AND I AM PLEASED TO BE HERE TODAY REPRESENTING THE WESTERN STATES COALITION FOR EFFECTIVE U.S. CUSTOMS SERVICE.

I WANT TO THANK YOU FOR YOUR CONTINUED INTEREST IN THE U.S. CUSTOMS SERVICE AND HOW IT FUNCTIONS ON THE WEST COAST OF THE UNITED STATES.

THE FIRST PORTION OF MY TESTIMONY WILL BE A BRIEF REVIEW OF THE WESTERN STATES COALITION AND ITS RECENT ACTIVITIES. THE COALITION, ORGANIZED IN 1985, HAS AS ITS MEMBERS SEAPORTS, AIRPORTS, RAILROADS, CUSTOMS BROKERS ASSOCIATIONS AND OTHER ENTITIES INTERESTED IN CARGO AND PASSENGER FACILITATION THROUGH WEST COAST GATEWAYS. PRESENT MEMBERSHIP TOTALS IN EXCESS OF 30 SUCH ORGANIZATIONS.THE COALITION, THROUGH ITS EXECUTIVE COMMITTEE CONSISTING OF THE MAJOR PACIFIC COAST PORTS OF LONG BEACH, LOS ANGELES, OAKLAND, PORTLAND, SAN DIEGO, SAN FRANCISCO, SEATTLE, AND TACOMA, A NUMBER OF WHICH ALSO OPERATE INTERNATIONAL AIRPORTS, AND THE LOS ANGELES DEPARTMENT ON AIRPORTS, ESTABLISHES THE POLICIES, COORDINATES THE ACTIVITIES AND SETS THE GOALS FOR THE COALITION. THE PRIMARY GOAL OF THE COALITION HAS BEEN TO SEEK EFFECTIVE U. S. CUSTOMS FACILITATION ON BEHALF OF THESE PACIFIC COAST GATEWAYS, AND THE SHIPPING LINES, RAILROADS, TRUCKING FIRMS AND AIRLINES THAT SERVE THEM, AS WELL AS MEETING THE NEEDS OF INTERNATIONAL SHIPPERS AND PASSENGERS.

SINCE THE COALITION WAS ORGANIZED, WE BELIEVE THERE HAS BEEN PROGRESS MADE THROUGH INCREASED STAFFING LEVELS TO MEET THE VERY SERIOUS CONCERNS WE HAVE HAD REGARDING THE SHORT TERM AND LONG TERM NEGATIVE IMPLICATIONS OF INADEQUATE LEVELS OF U. S. CUSTOMS STAFFING IN CARGO CLEARANCE AND INSPECTION OF CARGO AND PASSENGERS AT OUR PACIFIC COAST SEAPORTS AND AIRPORTS. OF EQUAL CONCERN HAS BEEN, IN OUR VIEW, THE LESS THAN ORDERLY IMPLEMENTATION OF CUSTOMS' AUTOMATED COMMERCIAL SYSTEM AT UNITED STATES PORTS OF ENTRY.

This coast-wise effort has set aside competitive considerations among our ports with the goal of working together through the Coalition for the benefit of all Pacific Coast seaports and airports.

Attached is a copy of the Coalition's policy statement and a statement of its goals and objectives. In summary, it states:

1. Differences in Customs facilitation capabilities (and other inspection services) among ports should not become a competitive issue.

2. Each port can seek to ensure adequate facilitation services in a manner not detrimental to other West Coast ports.

3. The Coalition seeks the broadest membership base possible of all interests involved with international trade.

4. The Coalition desires to achieve its objectives through a constructive dialogue with the U. S. Customs Service at the local, regional and national level and believes the interests of the membership and the U. S. Customs Service can best be served through open communication and cooperation. We also seek the same constructive dialogue and cooperation from other government inspection agencies.

Since formation of the Coalition in 1985, we have made various presentations before committees of Congress calling for increased Customs staffing on the Pacific Coast and have met extensively with Customs staff at all levels. Recognizing the lack of available factual data, the Coalition funded, at its own expense, a detailed study of the U. S. Customs service which has been made available to both the Congress and the Customs Service for their consideration and use. A copy of that study is submitted with this statement. Since that time, WE ARE PLEASED TO REPORT THAT STAFFING IN THE VARIOUS DISTRICTS HAS BEEN INCREASED, WHICH SHOULD RESULT IN IMPROVED CLEARANCE TIME AND BETTER FACILITATION IN THE MOVEMENT OF CARGOES THROUGH VARIOUS PORTS. ON BEHALF OF OUR MEMBERSHIP WE WOULD LIKE TO TAKE THIS OPPORTUNITY TO EXPRESS OUR APPRECIATION TO THE CONGRESS FOR THE SUPPORT GIVEN TO OUR REQUESTS.

WE BELIEVE TIME IS NECESSARY TO DETERMINE TO WHAT EXTENT THESE INCREASES IN STAFFING LEVELS HAVE SERVED TO RELIEVE MANY OF THE PROBLEMS EXISTING IN THE PAST AT VARIOUS CUSTOMS DISTRICTS ON THE WEST COAST. WE BELIEVE IT IS TIME TO DETERMINE IF THERE ARE WAYS IN WHICH THE USE OF AUTHORIZED STAFFING CAN BE USED MORE EFFICIENTLY TO IMPROVE FACILITATION. WE RECOGNIZE THAT ONE OF THE DIFFICULT BALANCING ACTS THAT THE CUSTOMS SERVICE MUST DEAL WITH IS THE EMPHASIS APPROPRIATELY BEING PLACED ON DRUG INTERDICTION AND OTHER VIOLATIONS OF OUR CUSTOMS LAWS WHILE ALSO MEETING THE NEED FOR EXPEDITIOUS PROCESSING OF CARGOES AND PASSENGERS. WE BELIEVE THERE IS A NEED TO REEXAMINE THE ALLOCATION OF CUSTOMS INSPECTORS TO INSURE MAXIMIZING PRODUCTIVITY. OUR COALITION HAS CALLED FOR A NATIONAL MODEL FOR INSPECTOR ALLOCATION AND THE CUSTOMS SERVICE HAS ADVISED US IT IS UNDER DEVELOPMENT AND WILL BE IMPLEMENTED THIS CALENDAR YEAR. WE SUPPORT ITS OBJECTIVE IMPLEMENTATION AS A MEANS OF MAXIMIZING COST EFFECTIVENESS.

WITH RESPECT TO STAFFING, WE OFFER THE FOLLOWING OBSERVATIONS. WE UNDERSTAND THAT IN THE FY 88 BUDGET, CONGRESS HAS GIVEN AUTHORITY FOR A FULL COMPLEMENT OF 16,200 POSITIONS TO THE CUSTOMS SERVICE AND THAT THE PROPOSED BUDGET WILL PROVIDE FOR THE SAME LEVEL OF STAFFING IN FY 89. HOWEVER, IT APPEARS THAT THROUGH ATTRITION, TRANSFERS, AND THE DIFFICULTY IN FILLING POSITIONS IN A TIMELY MANNER, STAFFING LEVELS BELOW CONGRESSIONAL BUDGET AUTHORITY AND ADMINISTRATION TARGETS RESULT. ONE OF THE WAYS TO ADDRESS THIS PROBLEM WITHOUT INCREASING COSTS WOULD BE TO MAKE THE ENTIRE PROCESS OF FILLING POSITIONS PROCEED MORE RAPIDLY. IN ADDITION TO RECRUITING, WE UNDERSTAND DELAYS IN

FILLING OF POSITIONS IS IN THE TRAINING OF CUSTOMS SERVICE INSPECTORS. IT IS MY UNDERSTANDING THAT FUNDING HAS BEEN REDUCED FOR THE GOVERNMENT LAW ENFORCEMENT TRAINING CENTER AT GLYNCO, G.A., WHICH TRAINS NEW CUSTOMS INSPECTORS. WE REQUEST THE RESTORATION OF NEEDED TRAINING FUNDS SO THAT TRAINING OF INSPECTION PERSONNEL CAN PROCEED TO MAKE THEM FULLY FUNCTIONAL WITHIN THE SERVICE ON A SCHEDULE TO ACCOMPLISH THE CONGRESSIONAL INTENT.

ANOTHER CONCERN OF OUR COALITION IS THE USE, OR PERHAPS MORE ACCURATELY, THE "NON-USE" OF CUSTOMS USER FEES TO ACCOMPLISH THEIR ALLEGED PURPOSE OF CARGO FACILITATION. OUR MEMBERS FACE A SITUATION WHERE THE CUSTOMS SERVICE GENERATES OVER $3 BILLION IN REVENUES AS A RESULT OF OUR LOCAL PUBLIC INVESTMENT IN FACILITIES, IN WHICH WE PROVIDE THE SERVICE WITH FREE, OR BELOW-MARKET RENT FOR OFFICE SPACE, AND THEN ASSESSES OUR CLIENTS "USER FEES", WITH THE FUNDS GENERATED BY THE "FEES" NOT BEING USED TO FACILITATE CARGO AND PASSENGER MOVEMENT. WE BELIEVE SUCH A SITUATION IS TOTALLY INEQUITABLE. IF "USER FEES" ARE TO REMAIN, WE BELIEVE THEY SHOULD BE "COST ORIENTED", WITH COST DEFINED ON A FULLY DISTRIBUTED BASIS INCLUDING FAIR MARKET VALUE FOR OFFICE RENTAL, AND THEN THE REVENUE GENERATED BE USED TO FACILITATE CARGO AND PASSENGER MOVEMENT.

OF ONGOING CONCERN TO OUR COALITION'S MEMBERS IS THE PERCEPTION HELD BY MANY TRADE INTERESTS THAT THERE IS A LACK OF UNIFORMITY IN APPLICATION OF CUSTOMS' PROCEDURES AMONG CUSTOMS DISTRICTS AND AMONG CUSTOMS REGIONS. IT IS CLEAR FROM THE SURVEY CONDUCTED BY BOOZ, ALLEN & HAMILTON THAT THIS PERCEPTION DOES EXIST. WE BELIEVE THAT INCREASED AUTOMATION OF THE CUSTOMS' PROCESS CAN REDUCE SUCH DISCREPANCIES AND WE ALSO UNDERSTAND THAT THE CUSTOMS SERVICE IS ADDRESSING THIS CONCERN THROUGH PERIODIC MEETINGS AMONG THE CUSTOMS' REGIONAL STAFFS. HOWEVER, OUR COALITION ALSO BELIEVES THAT LEGISLATION ADDRESSING LACK OF UNIFORMITY, IF IT PERSISTS, IS APPROPRIATE AND WE SUPPORT THE CONCEPT OF SEEKING TO MINIMIZE AND HOPEFULLY ELIMINATE DISCREPANCIES IN APPLICATION AMONG CUSTOMS DISTRICTS OR REGIONS.

WE BELIEVE THE COMING YEAR CAN BE A WATERSHED YEAR FOR CUSTOMS ACTIVITIES AT WEST COAST PORTS. ALTHOUGH WE ARE PREPARED TO LIVE WITH THE PRESENT STAFFING LEVELS SUBJECT TO OUR ABOVE COMMENTS, THE GROWTH OF CARGO FORECASTED AT WEST COAST PORTS DEMANDS, WE BELIEVE, A FAIR ALLOCATION OF HUMAN RESOURCES, EXPEDITED RECRUITMENT AND TRAINING OF PERSONNEL, AND ORDERLY IMPLEMENTATION OF AUTOMATION.

WE ANTICIPATE THAT BASED EVEN ON VERY CONSERVATIVE CARGO PROJECTIONS, THERE WILL BE AT LEAST A TWO-FOLD INCREASE IN THE MOVEMENT OF CONTAINERIZED CARGOES BETWEEN NOW AND THE YEAR 2000 THROUGH WEST COAST PORTS. LONG TERM STAFFING REQUIREMENTS FOR CUSTOMS MUST ANTICIPATE THIS GROWTH CURVE AND KEEP PACE WITH IT, NOT LAG BEHIND AS HAS BEEN THE CASE IN THE PAST.

ALTHOUGH STAFFING LEVELS NOW APPEAR MORE ADEQUATE TO MEET IMMEDIATE NEEDS, AND WE SENSE A SIGNIFICANTLY IMPROVED RELATIONSHIP BETWEEN OUR MEMBERSHIP AND THE U. S. CUSTOMS SERVICE, WE ALSO BELIEVE A SENSE OF COMPLACENCY WOULD BE A SERIOUS MISTAKE. WE ARE CONFIDENT OF CONTINUED CONGRESSIONAL SUPPORT TO MEET OUR OBJECTIVES.

WESTERN STATES COALITION FOR EFFECTIVE U.S. CUSTOMS SERVICE

Statement of Goals

1. To secure and maintain a level of Customs facilitation (and other inspection services) adequate to support the needs of all West Coast ports.

2. To eliminate differences in facilitation levels as a potential competitive factor among West Coast ports.

3. To ensure increased Customs staffing provided for one West Coast District is not provided at the expense of another West Coast District.

4. To ensure that present and future staffing of inspectors and support personnel at all West Coast ports is reflective of the significant role that the West Coast plays in United States foreign trade and its growing role relative to other coastal ranges.

5. To achieve a level of automation of inspection services capable of handling current and future trade volumes implemented in an orderly manner and designed to facilitate efficient cargo flows.

6 To cooperate with the U.S. Customs Service in the implementation of automated inspection systems through a program of coastwide involvement and communication to avoid cargo dislocations among ports caused by facilitation variances.

7. To cooperate with the customs broker community to carry forward cooperative facilitation programs.

8. To generate the broadest possible base of support among all interested parties to ensure an adequate level of Customs facilitation for the present and future at all West Coast ports.

9. To work toward procedures which will facilitate the needs of the rapidly changing intermodal transportation system while recognizing the enforcement responsibilities of the U.S. Customs Service.

10. To ensure that West Coast ports have meaningful input to the U.S. Customs Service decision making process concerning staffing and administering U.S. Customs Service enforcement and trade facilitation responsibilities.

11. To ensure to the greatest extent possible uniform application of U.S. Customs Service procedures at all West Coast ports through a regional organizational structure overseeing the activities of the West Coast Customs Districts.

Policy Statement

The members of the Coalition believe that differences in Customs facilitation capabilities (and other inspection services) among ports should not become a competitive issue among the U.S. West Coast ports. Each member of the Coalition supports the concept of the necessity for a satisfactory level of Customs facilitation at all West Coast ports. A less than satisfactory level of facilitation at any West Coast port is unacceptable to the members of the Coalition.

While each member of the Coalition appropriately reserves the right to carry forward its own program to ensure adequate facilitation services in its own local area, such programs will be designed and implemented in a manner which will not be detrimental to the interests of any other West Coast port.

While the Executive Committee of the Coalition consists solely of West Coast public port authorities, the members recognize the desirability of having the broadest membership base possible of public and private sector interests and welcomes participation of all interested parties including but not limited to shipping lines, airlines, terminal operators, inland transportation companies, customs brokers, importers, and exporters.

The Coalition desires to achieve its objectives through a constructive dialogue with the U.S. Customs Service at the local, regional and national level and believes the interests of the membership and the U.S. Customs Service can best mutually be served through open communication and cooperation.

Senator DECONCINI. Thank you, Mr. Montgomery.

We are going to look at both of those subjects carefully. The training center budget is cut back by the administration. I don't know where we are going to find the money, but we are going to try to keep that at last year's level if we possibly can, and maybe even some expansion.

Some of these people, we were told by Customs, are in the pipeline, going under training and what-have-you. But I agree with you, for us to authorize them and fund them, and not have them within reasonable time is kind of hard on you folk, as well as not good management.

Thank you very much.

STATEMENT OF WEBSTER TOPLEY ON BEHALF OF THE NATIONAL DEMOCRATIC POLICY COMMITTEE

Senator DECONCINI. We will now hear from National Democratic Policy Committee, Mr. Webster Topley.

If you would summarize your statement, Mr. Topley, we will put your full statement in the record.

Mr. TOPLEY. Mr. Chairman, I would like to thank you, first of all, for the opportunity to testify here today in the name of the National Democratic Policy Committee.

The written testimony that we have submitted generally makes the case for the Treasury Department becoming the lead agency in the war on drugs, and in particular because of the large, very large amounts of money coming from illegal drug trafficking that are laundered through the very large money center banks.

I think the case is made adequately in the written testimony. I would like to concentrate my statement now on a second point, and this touches on the role of the Treasury in promoting economic recovery from the present economic depression and ongoing international financial panic.

Since the events of last October, it has been evident to many thoughtful observers that we are living through the collapse of one of the biggest financial bubbles of all times.

In particular, if you compare, Mr. Chairman, the development of the Dow-Jones industrial average from 1929 to 1930, and superimpose on that the Dow-Jones industrial average of 1987 to 1988, you will see that these are almost exactly congruent. If this congruence is maintained, as we believe it will be if the policies are not changed, this would imply a Dow-Jones industrial average of about 1,200 by the end of this year. The theoretical bottom, somewhere off this graph, is between 400 and 500 points sometime during 1990.

The crisis has included the turmoil of the stock market, but only that, it has included an extremely dangerous decline in the international value of the dollar. This is now emerging more and as a crisis of real estate values tending to precipitate a generalized banking panic. The case of First Republic Bank of Texas and other well-known banks are merely harbingers of serious problems that are about to affect the New York and other money center banks.

The NDPC feels strongly that it is impossible to maintain the present inflated value of stocks and real estate. To attempt to do this would not succeed and would only ruin the public credit of the United States. But we must, on the other hand, defend the value of the dollar, the integrity of Treasury securities, and other forms of public debt. We must, of course, preserve our banking system and the deposits of individual savers.

To accomplish these goals, the National Democratic Policy Committee has proposed that we return to a currency issued by the Treasury, with the money supplied being determined by bills passed by the two Houses of Congress and signed into law by the President.

According to article I, section 8, of the Constitution, which emphatically gives Congress the right to coin money, the era of the Federal Reserve note, in other words, would be replaced by a return of the U.S. note or Treasury note. These notes would be used to revive the inherent power of the Treasury to be its own central bank and to generate credit.

To promote economic recovery, some $2,000 billion of new Treasury notes could be issued and lent out through the banking system to the private sector. These should be gold reserve notes, to be lent at 1- to 2-percent interest rates for long maturities.

If this new credit is channeled on a preferential or dirigistic basis into industry, agriculture, and other hard commodity activities that involve the production of tangible, physical goods, the result of that would be a broad-based agri-industrial recovery and the creation, over even a few years, of some 5 million highly skilled and highly remunerated industrial jobs.

The alternative is to follow the bouncing ball of the financial markets into the deep trough of a new world depression.

PREPARED STATEMENT

Mr. Chairman, we realize that the implementation of a Treasury centered currency would imply a significant political change, but at the same time, we urge the committee to consider funding a study on how the changes that I have indicated could be carried out.

I thank you for your attention, Mr. Chairman.

[The statement follows:]

STATEMENT OF WEBSTER TOPLEY

Thank you, Mr. Chairman, for the opportunity to testify before you today. I would like to focus my remarks on the necessity for a War on Drugs, and why there has been a failure to conduct a War on Drugs. Forgive me if I touch upon institutions and areas that are not the immediate purview of this committee, but it is important that we recognize the environment in which we are operating.

Despite increasing seizures by law enforcement agencies, the U.S. is on the brink of losing the War on Drugs. Record amounts of drugs are still being supplied, and ever larger amounts of illegal narcotics proceeds are being laundered through the banking system, easily within the range of $500 billion a year.

Two reports, "Controlling Drug Abuse: A Status Report" prepared by the General Accounting Office, and "International Narcotics Control Strategy Report" prepared by the U.S. State Department's Bureau of International Narcotics Matters, paint a picture of a drug problem which is growing in most producing countries, a picture where production of heroin, cocaine and marijuana is up, prices are down and the number of users is increasing with a dramatic shift from marijuana abuse to harder drugs such as cocaine and the more deadly "crack."

Why is the War on Drugs being lost?

First, in the area of economics, there is a rock hard ideological commitment on the part of President Ronald Reagan, Vice President George Bush, on down, to equate the black market economy, ie. the drug economy, with production of real wealth.

Second, according to credible sources, Bush is afraid that the banking collapse which would likely result from a tough crackdown on the major banks involved in laundering the $500 billion in narcotics money, would ruin his chances to become president. The departure in 1985 of Assistant Secretary of the Treasury for Enforcement and Operations John Walker, combined with the role of the now former Assistant Attorney General William Weld, ensured a halt in prosecution of banks for drug money laundering. The slap on the wrist fine given to Bank of Boston in 1985, in reality protection afforded to that bank by Weld, was the last major money laundering case brought by the Reagan administration.

These two problem areas have festered to gigantic proportions because their enforcement arm, the National Endowment for Democracy and its behind the scenes counterpart, Project Democracy, have become a secret government unto themselves with incredible power. A prerequisite for a War on Drugs is eradication of this network.

I would like to note for this subcommittee that this apparatus is going to great lengths to silence critics of this secret government, including the National Democratic Policy Committee. Invention of new legal rules, attempts to circumvent the courts, and so forth, are being used to collect a $5 million fine against the NDPC even while that sentence is on appeal. If successful, this secret government will have succeeded in imposing a literal death sentence against a first amendment protected political action committee.

THE DRUG ECONOMY

On September 27, 1987, President Reagan declared in a speech before the U.N., "Development is not itself a right." "We're all familiar with the phenomenon of the 'underground economy,'" Reagan said. "The scholar, Hernando de Soto, and his colleagues have examined the situation of one country, Peru, and described an economy of the poor that bypasses crushing taxation and stifling regulation. This 'informal economy,' as the researchers call it, is the principal supplier of many goods and services...The free market is the other path to development, and the one true path."

This statement is an explicit endorsement of the legalization of the black economy.

Assistant Secretary of State for Inter-American affairs Elliott Abrams and the Project Democracy group have declared the major enemy in the hemisphere to be the existence of strong nation states and the militaries that defend them. State Department Special Report No. 158, issued in March and entitled "Democracy in Latin America and the Caribbean: The Promise and the Challenge," calls for "new values (and) organizational diversity" to replace the institutions which have formed the backbone of the Ibero-American republics--the labor movement, the Catholic Church, and the military."

Narco-terrorism is not pinpointed as the major enemy, but "the pervasiveness of hierarchical structures with deep historic and cultural roots has created ingrained authoritarian habits" which threaten democracy. Key offenders are "religious and military institutions--the 'cross and the sword'--of the Spanish Conquest, key pillars of traditional order ever since."

A chief instrument of this policy has been the Center for International Private Enterprise (CIPE), and its star project, Hernando de Soto's Institute for Liberty and Democracy (ILD) in Lima, Peru.

In November 1986, the ILD published The Other Path, billed as a "manual" on how the "informal economy" can be tapped as a new source of wealth to pay the debt and return to growth. De Soto proposes the legalization of the black economy as the answer to the region's ills. The narcotics trade is by far the largest component of the black economy.

Advertisements hailed the book for devising "a Latin American strategy destined to limit the powers of our states." The Other Path argued that the existence of the nation state itself oppresses freedom, and that "we must imbibe the norms of extra-legality" to defeat it.

Peruvian novelist Mario Vargas Llosa wrote the introduction and provided the inspiration for the book, according to ILD members. Vargas Llosa capture the essence of the libertarian worldview of Project Democracy. A follower of fascist philosopher Nietzsche, Vargas Llosa wrote in his book, The Perpetual Orgy: "Our incurable materialism, our predilection for the pleasures of the body over those of the soul, our respect for the senses and instincts, our preference for the earthly life over anything else...are what religion and Western morals have barbarically combatted throughout history."

CIPE, an arm of the NED, and the Rockefeller family's Americas Society backed up de Soto's work, financing a huge publicity campaign throughout the continent. By spring, The Other Path has become the America's best seller.

On May 1, 1987, in a speech before the Association of American Chambers of Commerce, Elliott Abrams declared The Other Path to be the official policy of the Reagan administration. Praising de Soto, Vargas Llosa, and the ILD, Abrams stated that the answer to the economic crisis is "legalizing the co-called parallel markets...Free markets may exist only in the informal economy, which does not enjoy the protection of the law."

Nancy Reagan's emphasis on the demand side of the drug plague, "Just Say No" to drugs, is enraging when contrasted to official policy to accept the black economy and halt money laundering prosecutions. Insult is added to injury when one adds in the proposed cuts to DEA, Coast Guard, and other anti-drug law enforcement agencies.

A SERIOUS WAR ON DRUGS

I want to add to my testimony at this point, Mr. Chairman, a set of proposals by Mr. Lyndon LaRouche which outline how a real War on Drugs should be conducted. I would point out that embedded in these proposals is a strong committment to and respect for the principal of national sovereignty among nation states. Please keep these in mind because some individuals are proposing law enforcement mechanisms that seek to supercede the nation state.

THE WAR PLAN

1). What we are fighting, is not only the effects of the use of these drugs on their victims. The international drug traffic has become an evil and powerful government in its own right. It represents today a financial, political, and military power greater than that of entire nations within the Americas. It is a government which is making war against civilized nations, a government upon which we must declare war, a war which we must fight with the weapons of war, and a war which we must win in the same spirit the U.S. fought for the unconditional defeat of Nazism between 1941 and 1945. Law enforcement methods, by themselves, will fail; even joint law enforcement efforts by the nations bordering the Caribbean would fail. The nations of Central and South America will each and all either fall under bloody, Nazi-like dictatorships, or will be destroyed through more or less perpetual civil war, unless the international drug traffic's invasion of this Hemisphere is crushed by the methods and weapons of war.

2). Law enforcement methods must support the military side of the War on Drugs. The mandate given to law enforcement forces deployed in support of this war, must be the principle that collaboration with the drug traffic or with the financier or political forces of the international drug traffickers, is treason in time of war.

MATERIAL SUBMITTED SUBSEQUENT TO THE HEARING

[CLERK'S NOTE.—The following statements were submitted subsequent to the hearing and will be inserted in the record at this point.]

STATEMENT OF CHARLES A. VANIK, WASHINGTON REPRESENTATIVE, COALITION FOR NORTH AMERICAN TRADE AND INVESTMENT

I am Charles A. Vanik, partner in the law firm of Squire, Sanders and Dempsey. My statement is submitted on behalf of the Coalition for North American Trade and Investment, an organization with a strong interest in hemispheric trade and Customs commercial operations, particularly at the U.S.-Mexico border.

The aim of the Coalition is to support Mexico's maquiladora program, sections 806.3 and 807 of the Tariff Code, and the expansion of mutually beneficial trade and investment among the nations of the North American continent. In the long run, the Coalition envisions the emergence of a free trade area encompassing the United States, Mexico, Canada, the Caribbean, and possibly other Latin countries. A list of members of the Coalition is appended to our statement.

It is no secret that in recent years Customs has been strapped for funds at a time when our foreign trade has been sharply rising and is projected to continue to increase into the next century. The purpose of our statement is to review the Administration's budget request for Customs for FY 1989 against the backdrop of recent developments and to recommend an alternative budget that would be more responsive to commercial trade needs. We should not allow Customs to continue to be hindered by inadequate numbers of inspectors and import specialists, and archaic clearance procedures and facilities.

The growing workload and stagnant resources that confronts Customs has been amply documented by two long-range studies completed by Peat Marwick in 1980 and McKinsey and Company this year.[1] Cargo tonnage forecasts made by individual ports, such as those presented recently at congressional hearings in Los Angeles and Philadelphia, corroborate the anticipated growth and the need for adequate Customs capability.[2] The Southwest and Pacific Customs regions, which carry the ever-increasing commerce of maquiladora and conventional trade with Mexico and the Orient, are areas of paramount and documented concern.[3]

FY 1988 Congressional Action

Last year, our Coalition joined other commercial interests in supporting congressional enactment of the first increase in Customs commercial operations staffing in a decade. By defeating a proposed rescission that would have cut 1,485 positions, and restoring another 513 positions proposed for elimination by OMB, Congress called

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1. U.S. Customs Service, Consolidated Long-Range Strategic Plan, prepared by Peat, Marwick, Mitchell & Company, February 29, 1980.

   __________, Developing A Strategic Vision of U.S. Customs' Commercial Operations, prepared by McKinsey & Company, February 1988.

2. Testimony of Travis A. Montgomery, Director of Trade Development, Port of Long Beach, before Subcommittee on Treasury, Postal Service and General Government, House of Representatives, February 11, 1988. Testimony of Robert L. Pettegrew, Executive Director, South Jersey Port Corporation, before Subcommittee on Commerce, Consumer Protection and Competitiveness, House of Representatives, March 18, 1988.

3. Hearings before Subcommittee on Treasury, Postal Service, and General Government, House and Senate, 1987 and 1988. Committee on Finance, U.S. Senate, hearings on Management of the U.S. Customs Service, 1987. U.S. International Trade Commission, The Impact of Increased United States-Mexico Trade on Southwest Border Development, November 1986.

a halt to further cuts and restored nearly 2,000 positions. Congress then went further and added 1,087 new positions, of which 74 percent were allocated to commercial operations (Table 1).

The geographic distribution of the new positions is shown in Table 2. The Southwest Region received 205, and the Pacific Region 162, of these positions --33 percent of the total. Southwest and Pacific together received 219 inspectors and 42 import specialists.

These additional resources could not have come at a more opportune moment, as trade flows through the Southwest and Pacific regions are sharply rising. Between 1976 and 1986, formal entries grew 114 percent in the Southwest, and 158 percent in the Pacific region (Table 3). During the same period, the number of arriving land carriers grew 16 percent and 37 percent, respectively. Yet permanent on-board strength in the two regions declined from 4,387 to 3,871 (Table 4).

Clearly, even with the new resources Customs still has a long way to go. The pressure on Import Specialists is particularly acute. Between 1983 and 1986, the number of formal entries filed per import specialist grew from 4,536 to 6,466 in Southwest, and from 5,205 to 8,577 in Pacific region. The number of trade program entries per import specialist doubled during the same period in each region. Trade program entries are those considered to most require import specialist attention (quota, GSP, anti-dumping, countervailing duty, etc).

To block further reductions by OMB, Congress took the rarely-used step of mandating in legislation that Customs be staffed this year at no fewer than 16,099 positions. To deal with the need to renovate obsolete border crossing facilities in the Southwest, Congress also appropriated to the General Services Administration $28.6 million for border facilities construction and improvements. A listing of these border capital improvements, which GSA is in the process of executing, is contained in Table 5. Funds in the amount indicated were appropriated to these projects in the FY 1988 Continuing Resolution, passed last December 21st.

Congress also responded favorably to our appeal for reduction of the financial burden of Customs user fees, allowing the commercial processing fee to drop to 0.17 percent *ad valorem* instead of 0.22 percent as passed by the House. The conference also adopted a provision that, with respect to TSUS items 806.30 and 807.00 imports, the value of U.S. components would remain exempt from user fees, but the fee would be imposed upon the proportion of value associated with foreign processing.

In view of the fact that importers and carriers are paying for Customs services through the user fee system, Congress provided in legislation that all customs services should be "adequately provided" for the clearance or preclearance of vessels, vehicles, aircraft, or passengers without additional charges other than the user fees.

FY 1989 Budget Request

We must record our disappointment that, instead of continuing the promising start of last year, the Administration has proposed a stand-pat budget for FY 1989 which would maintain Customs strength at 16,099 average positions. We do not believe the increase made last year is sufficient to bring adequate capability to Customs commercial operations.

There is clear evidence of a workload-resource imbalance and the need to build up required staff over a period of years if trade is to flow smoothly. Cargo processing positions must increase significantly to catch up to the growth in formal entries (Table 6). The number of merchandise releases and containerized shipments continues to grow, and even though Customs has automated and centralized the examination process, additional inspectors are required to speed release of shipments and assist importers and brokers with the growing number of problem shipments (Table 7).

Two General Accounting Office reports, one dealing with entry processing[4], and the other with cargo inspection[5], also cite the general inadequacy of staff resources.

Customs urgently needs to take stock of its manpower requirements to guide future congressional budget actions. In this connection, the comprehensive General Accounting

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4. General Accounting Office, Assurance Needed That Import Classifications Are Accurate (GAO/GGD 81-46, April 23, 1981).

5. General Accounting Office, Cargo Imports -- Customs Needs to Better Assure Compliance With Trade Laws and Regulations (GAO/GGD 86-136, September 1986). See also, Air Cargo Imports -- Customs Needs to Overcome Concerns to Benefit From Centralizing Examinations (GAO/GGD 88-64, March 1988).

Office study requested by the Treasury Appropriations Subcommittees, due later this year, should provide a guide to the cost-effectiveness of additional resources. In mandating that study, Congress noted that, besides being a border enforcement and service agency, Customs is a revenue-producing agency that returns on average $17 for each dollar spent. We concur with the view that additional commercial operations staff will more than pay for itself, besides saving the international trade community an untold amount of time and expense.

Import Specialist Problems Need Attention

We are concerned that Customs has far too few import specialists to process an entry workload in which the number of trade program entries is growing.

Customs is presently "bypassing" about seventy percent of all formal entries, which are accepted as entered and liquidated, subject to post-audit review of a small sample. However, the number of trade program entries has been growing faster than the number of entries as a whole. Between 1982 and 1986 trade program entries doubled, while total entries increased 54 percent. These trade-sensitive entries are subject to political pressures for tighter enforcement, which translates into processing delays and errors when there are too few import specialists.

There is ample evidence that today's import specialists do not have the same degree of experience and professional knowledge as formerly. The interpretations of import specialists influence important business decisions, and major financial loss can be inflicted if such interpretations prove to be erroneous. Under the "Day One" concept announced by the commissioner, a "trade inspector" would perform both import specialist and inspectional functions. Customs has not explained how, under "Day One", the professional expertise required to properly assist importers and brokers will be maintained.

Because Customs can no longer inspect every shipment or review every entry, a high degree of voluntary compliance with the customs laws is essential. Most importers and brokers want to comply with the law, but they need assistance from Customs in applying the fast-changing body of regulations, rulings, and precedents. In the past, such assistance was provided by import specialists through visits to importers' premises and through line review of entries prior to formal acceptance. However, as entries have risen, import specialists have remained mired in paperwork and become increasingly inaccessible to the importing community. Customs has not yet automated the entry review function, so import specialists lack the modern tools needed to perform their job efficiently and spend more time with importers.

As one commentator has aptly put it:

> "Rather than adding more laws to punish Customs violators, constructive steps should be taken by the Customs Service to promote voluntary compliance with Customs law through greater emphasis on education, interaction and communication between the Customs Service and importers. Customs commercial operations personnel, primarily Customs import specialists, should be assigned away from processing mountains of Customs entry papers sitting behind a desk in the Customshouse and making them more accessible to importers who need them to obtain classification and value decisions and clarification of new rules and regulations.[6]

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[6] Testimony of Fermin Cuza, Mattel, Inc. before Subcommittee on Treasury, Postal Service and General Government, House of Representatives, February 11, 1988.

Among the options developed by McKinsey in its commercial operations review is the proposal that import specialists spend more time in visits with importers. McKinsey urged that this recommendation be implemented immediately. We concur, but are convinced that the budgetary impacts should be recognized. Additional import specialist staff-years are required, as are additional funds to give import specialists more computer assistance to speed entry review.

Customs has in recent years made several attempts to consolidate districts and centralize import specialists in fewer locations. Prodded by the importing communities in the ports, Congress has refused to go along, maintaining that centralization would lessen accessibility to import specialists and reduce the services they provide. Customs then introduced the Port of Arrival Immediate Release and Enforcement Determination (PAIRED) program, whereby entries could be filed at any port and shipments would be cleared and released at the port of initial arrival. PAIRED has been objected to by some in the business community, and we will be closely monitoring the work of the new private sector Advisory Committee on Commercial Operations to clarify whether Customs plans to follow through with this program.

Commercial Operations Yield Revenue

Because Customs is a revenue-producing agency, additional commercial operations staff more than pay for themselves. The best evidence of this is a Customs test, the Commercial Enforcement Selectivity Test, conducted by the Chicago region in 1983.[7] For a two-month period, all entries were bypassed, that is, accepted as entered. Subsequently, the bypassed entries were reviewed by import specialists for errors, and revenue accruing from this review was computed. The test found an incremental yield of $168.11 per trade program entry and $67.36 per non-trade program entry.

On average, Customs collects $2,000 per formal entry. This figure has remained relatively constant historically, despite changing trade laws and trade composition, as Table 9 shows. While the average return per entry has been known for some time, until the Chicago test there was no firm basis for estimating the incremental revenue yield from entry review.

Having sufficient import specialists would mean that many entries, of the 70 percent now being bypassed, would have fewer errors and be processed more efficiently. This would generate revenue for the Federal government that would otherwise have been lost. In addition, more accessibility of import specialists would stimulate a higher degree of voluntary compliance.

The Coalition has extended the results of the Chicago test to the formal entries filed in FY 1988. Assuming 30 percent of entries are being reviewed by import specialists, our computations show the potential revenue loss from the entries not being reviewed is $425 million. If 1,000 more import specialists were provided, at an annual cost of $40 million, we estimate 2.4 million more entries could be reviewed, and the revenue return on these entries would be $180 million. Thus, each dollar spent on additional import specialists returns $4.50 to the Federal government.[8]

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[7] U.S. Customs Service, North Central Region, Commercial Enforcement Selectivity Test, August, 1983.

Moreover, Customs presently collects approximately $17 billion annually in total revenue. Consequently, each one percent increase in voluntary compliance, stemming from greater accessibility of import specialists and the deterrent effect of additional entry reviews, would yield an additional $170 million to the Treasury. Counting this indirect revenue raises the yield-to-cost ratio for additional commercial operations staff from 4.5:1 to 9:1.

NATI Budget Recommendation for FY 1989

Our conclusion is that an investment in additional commercial operations resources is not only essential to meet the needs of trade, but would be propitious in terms of revenue yield to the Federal government.

Accordingly, we recommend that Congress provide an additional 1,000 commercial operations positions, including 500 import specialists, over and above the President's budget request for Customs for FY 1989. The annual cost of these positions is estimated to be $40 million.

We also recommend that Congress appropriate an additional $10 million to Customs to expedite its program to provide automated technical assistance to import specialists and to carry out automated entry review.

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[8] Detailed analysis is available from the Coalition upon request.

Finally, we recommend an additional $34.2 million, which is the amount required to maintain current FY 1988 levels of operation in FY 1989. This amount is contained in the President's budget, but funding was not requested.

Table 10 summarizes our recommendation. The additional resources requested total $84,251,000 and 1,000 average positions. The requested appropriation is for $1,051,154 and 17,099 average positions. We recommend that Customs be directed in legislation to maintain a staff of no fewer than 17,099 average positions in FY 1989.

Mr. Chairman, this concludes my statement. I will be glad to answer any questions.

Table 1

Customs Increases
For FY 1988
Positions

Operation	Inspection & Control Inspectors	Inspection & Control Support	Investigations	Tactical	Intelligence	Enforcement Support	Canine	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, and Audit	Security Legal & Other	Position Total	Percent % of Total
Commercial	302	47	99	0	0	0	0	0	121	39	169	27	804	74.0%
Enforcement	40	0	87	14	52	31	2	46	0	0	0	11	283	26.0%
Total	342	47	186	14	52	31	2	46	121	39	169	38	1,087	100.0%

Source: U.S. Customs Service

Table 2

U.S. CUSTOMS SERVICES INCREASES FOR
FISCAL YEAR 1988

(Includes all offices at those locations)

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
NORTHEAST REGION												
Baltimore, MD	7	1	0	0	0	0	0	1	1	0	0	10
Boston, MAS	8	2	17	0	3	8	0	6	2	10	0	56
Buffalo, NY	0	1	0	0	0	0	0	0	2	0	0	3
Ogdensburg, NY	0	1	0	0	0	0	0	0	1	0	0	2
Philadelphia, PA	0	1	0	0	0	0	0	1	0	5	0	7
Portland, ME	0	1	0	0	0	0	0	1	0	0	0	2
St. Albans, VT	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Northeast Region	15	7	17	0	3	8	0	9	6	15	0	80
New York Region												
New York	0	13	51	0	11	0	0	20	1	19	0	115
JFK International	15	0	0	0	0	0	0	5	7	0	0	27
Subtotal, New York Region	15	13	51	0	11	0	0	25	8	19	0	142

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
North Central Region												
Chicago, Ill	10	1	50	0	0	13	0	6	1	6	0	87
Cleveland, OH	11	1	0	0	0	0	0	3	0	0	0	15
Detroit, MI	0	0	0	0	0	0	0	0	1	1	0	2
Great Falls, MT	0	2	0	0	0	0	0	0	0	0	0	2
Milwaukee, WI	0	0	0	0	0	0	0	1	0	0	0	1
Denver, CO	0	0	0	0	0	0	0	1	0	0	0	1
Cincinnati, OH	0	0	0	0	0	0	0	0	0	5	0	5
St. Louis, MO	0	2	0	0	0	0	0	1	0	5	0	8
Minneapolis, MN	0	0	0	0	0	0	0	0	0	0	0	0
Pembina, ND	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, North Central Region ...	21	6	50	0	0	13	0	12	2	17	0	121
SOUTHEAST REGION												
Savannah, GA	0	1	0	0	0	0	0	3	2	0	0	6
Tampa, FL	0	2	0	0	0	0	0	2	1	0	0	5
Miami, FL	51	3	18	0	1	0	0	3	3	3	0	82
Freeport, Bahamas	2	0	0	0	0	0	0	0	0	0	0	2
Norfolk, VA	1	0	0	0	0	0	0	0	0	0	0	1
Charleston, SC	0	2	0	0	0	0	0	1	1	0	0	4
Wilmington, NC	5	1	0	0	0	0	0	2	0	0	0	8
Charlotte, NC	0	0	0	0	0	0	0	0	0	6	0	6
Atlanta, GA	0	0	0	0	0	0	0	0	0	7	0	7

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
Jacksonville, FL	0	0	0	0	0	0	0	0	0	0	0	0
Pensacola, FL	0	0	0	0	0	0	0	0	0	0	0	0
Tyndall, FL	0	0	0	0	0	0	0	0	0	0	0	0
Puerto Rico	0	0	0	0	0	0	0	0	0	0	0	0
Washington, D.C.	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Southeast Region	59	9	18	0	1	0	0	11	7	16	0	121
SOUTH CENTRAL REGION												
Mobile, AL	0	1	0	0	0	0	0	0	0	1	0	2
New Orleans, LA	0	0	8	0	0	6	0	2	0	4	0	20
Memphis, TN	3	1	0	0	0	0	0	0	0	0	0	4
Nashville, TN	0	0	0	0	0	0	0	0	0	3	0	3
Subtotal, South Central Region ...	3	2	8	0	0	6	0	2	0	8	0	29
SOUTHWEST REGION												
Laredo, TX	49	1	0	0	0	0	0	1	1	0	0	52
El Paso, TX	75	4	0	0	0	0	0	1	1	1	1	83
Nogales, AZ	27	1	0	0	0	0	0	2	0	0	0	30
Dallas/Ft. Worth, TX .	0	1	0	0	0	0	0	1	0	3	0	5

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
San Antonio, TX	0	0	0	0	0	0	0	0	0	0	0	0
Houston, TX	0	1	8	14	0	0	0	0	2	10	0	35
Tucson, AZ	0	0	0	0	0	0	0	0	0	0	0	0
Corpus Christi, TX ...	0	0	0	0	0	0	0	0	0	0	0	0
San Angelo, TX	0	0	0	0	0	0	0	0	0	0	0	0
Phoenix, AZ	0	0	0	0	0	0	0	0	0	0	0	0
Albuquerque, NM	0	0	0	0	0	0	0	0	0	0	0	0
Oklahoma City, OK	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Southwest Region	151	8	8	14	0	0	0	5	4	14	1	205
Pacific Region												
San Diego, CA	48	1	0	0	0	0	0	1	2	0	0	52
Los Angeles, CA	5	1	20	0	5	0	0	28	1	13	0	73
San Francisco, CA	6	1	0	0	0	0	0	4	2	0	0	13
Portland, OR	7	0	0	0	0	0	0	2	0	3	0	12
Honolulu, HI	2	0	0	0	0	0	0	0	1	0	0	3
Seattle, WA	0	1	0	0	0	0	0	2	2	1	0	6
San Jose, CA	0	0	0	0	0	0	0	0	0	3	0	3
Riverside, CA	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Pacific Region	68	4	20	0	5	0	0	37	8	20	0	162

	Inspectors	I&C Support	Investigations	Tactical	Intelligence	Enforcement Support	Air Program	Import Specialist	Commercial Support	Technical Support, ACS, & Audit	Security Legal Other	Total
SUBTOTAL, CUSTOMS OPERATIONS	332	49	172	14	20	27	0	101	35	109	1	860
Other Positions	10	0	14	0	32	4	46	20	4	60	37	227
TOTAL CUSTOMS OPERATIONS	342	49	186	14	52	31	46	121	39	169	38	1,087

Note: Regional cities include some positions which have not yet been allocated by the regions to the districts.

Table 3

Formal Entries by Region
FY 76 - FY 86
(000)

	Northeast	New York	North Central	Southeast	South Central	Southwest	Pacific	Servicewide
FY 76	708	811	621	264	56	229	637	3,325
FY 77	805	877	706	299	67	270	729	3,752
FY 78	909	902	766	323	73	298	811	4,081
FY 79	1,032	947	856	349	79	317	867	4,448
FY 80	1,060	907	818	348	77	317	906	4,434
FY 81	1,126	949	859	374	78	324	931	4,641
FY 82	1,127	1,004	853	381	79	334	975	4,753
FY 83	1,259	1,117	958	425	86	358	1,166	5,369
FY 84	1,513	1,309	1,174	530	110	448	1,411	6,495
FY 85	1,572	1,399	1,233	580	121	457	1,532	6,894
FY 86	1,605	1,460	1,314	643	160	491	1,647	7,320
Percent Change FY 76-86	126.7	80.0	111.6	143.6	185.7	114.4	158.6	120.2

Source: ACSR-ES-149 Entry Liquidation and Backlog Statistics

Note : Servicewide totals may not add due to rounding.

TABLE 4

ON-BOARD PFT POSITIONS BY REGION
FY 80 - FY 86*

REGION/POSITIONS	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86*
NORTHEAST							
Inspectors	838	832	660	776	749	777	776
Import Specialists	195	199	132	188	182	179	166
Patrol Officers	49	43	19	66	66	65	61
Criminal Investigators	42	39	49	101	103	122	105
All Other	613	591	520	526	524	502	423
Total	1,737	1,693	1,380	1,657	1,624	1,644	1,531
NEW YORK							
Inspectors	911	776	776	792	791	864	835
Import Specialists	187	340	316	314	327	311	296
Patrol Officers	201	197	167	117	149	139	115
Criminal Investigators	72	99	95	195	137	152	170
All Other	1,592	1,479	1,174	1,117	1,129	1,059	921
Total	3,063	2,891	2,759	2,545	2,533	2,527	2,337
NORTH CENTRAL							
Inspectors	536	525	518	549	551	594	598
Import Specialists	157	155	139	120	117	115	109
Patrol Officers	38	43	13	13	12	11	10
Criminal Investigators	71	85	92	109	110	114	109
All Other	615	549	559	526	545	525	444
Total	1,417	1,358	1,321	1,317	1,335	1,359	1,259
SOUTHEAST							
Inspectors	544	550	356	569	584	612	613
Import Specialists	112	108	59	98	99	91	87
Patrol Officers	184	247	313	341	370	295	333
Criminal Investigators	85	99	97	205	181	199	221
All Other	809	743	857	700	545	590	563
Total	1,734	1,747	1,691	1,913	1,776	1,787	1,817
SOUTH CENTRAL							
Inspectors	120	133	125	129	119	117	128
Import Specialists	37	34	39	25	37	39	34
Patrol Officers	74	90	105	124	107	91	63
Criminal Investigators	18	11	24	35	35	16	35
All Other	217	221	207	187	215	203	163
Total	466	489	492	500	502	478	423
SOUTHWEST							
Inspectors	663	654	640	659	666	720	784
Import Specialists	95	89	92	72	73	75	76
Patrol Officers	147	136	214	292	275	185	156
Criminal Investigators	65	59	91	120	94	100	104
All Other	501	483	438	427	475	478	423
Total	1,471	1,421	1,475	1,570	1,583	1,559	1,543
PACIFIC							
Inspectors	991	993	995	983	1,067	1,042	1065
Import Specialists	233	221	210	205	194	198	193
Patrol Officers	293	334	312	198	192	158	105
Criminal Investigators	169	193	217	226	205	203	224
All Other	1,231	1,150	1,060	810	809	799	741
Total	2,916	2,885	2,794	2,422	2,467	2,401	2,328
Total Reporting to Regional Commissioner	12,804	12,534	11,912	11,924	11,820	11,754	11,240

NOTE: To conform to the new regional configuration, FY 80 through FY 82 staffing was estimated for regions which gained or lost districts.

* FY 80 - FY 84 data reflects on-board PFT positions. FY 85 & 86 data reflect FTE positions.

The number of Patrol Officers (Series 1884) converted to Criminal Investigators (Series 1811) by the end of FY 85 was: NE(9), NY(19), NC(0), SE(38), SC(25), SW(26) PAC(18) and S'wide (135).

Sources: (FY 80-84) - Monthly Strength Reports, CP-File tally of employees (Business Systems Div.) USCS Staffing Report (Budget Division); (FY 85 & 86) - from PERMITS (FY 86 REPT, 10/29/86).

Table 5

Capital Improvements of United States-Mexico Border Facilities:

Nogales, AZ

Mariposa	$174,330
Grand Ave.	$375,310
Morley Gate	$64,000

Calexico,CA

New Station	$1,000,000
New Dock/Office	$411,320
R&A	$274,430

El Paso, TX

Ysleta	$2,651,320
Bridge ofthe Americas	$442,200
Paso del Norte	$2,850,000

Laredo, TX

Juarez-Lincoln Bridge	$5,745,000
Replace RR Bldg.	$118,000
Convent Street	$151,710

Brownsville, TX

Security	$14,661
Expand Lanes	$46,135
R&A	$67,204
B&M Bridge	$1,173,000
Los Indios Bridge	$510,000

Table 5 continued

San Ysidro/Otay Mesa, CA	
Virginia Street	$75,000
Safety Work	$1,601,000
R&A	$612,000
Improve Commercial Lot	$456,950
Firearms Range	$350,000
Reconfigure Lanes	$310,000
Signs/Security	$517,000
Andrade, CA	$143,000
Antelope Wells, NM	$14,000
Columbus, NM	$100,000
Fabens, TX	$100,000
Fort Hancock, TX	$100,000
Lukeville, AZ	$148,000
Marathon, TX	$50,000
Naco, AZ	$65,000
Presidio, TX	$100,000
Progresso, TX	$100,000
Roma, TX	$100,000
San Luis, AZ	$79,000
Del Rio, TX	
Expand Lanes	$270,000
Security	$250,000
Replace Stations	$3,640,000
Los Ebanos, TX	$520,000
Douglas, AZ	$228,000
Eagle Pass, TX	$480,000
Rio Grande City, TX	$510,000
Tecate, CA	$338,000
Hildago, TX	$289,510
Falcon Dam, TX	$400,000
Santa Teresa, NM	$663,000
TOTAL	$28,678,080

TABLE 6

MERCHANDISE ENTRIES AND COMMERCIAL OPERATIONS POSITIONS

FY 1980-1988

		Commercial Operations Positions (FTE)		
Fiscal Year	Formal Entries	Cargo Inspection Positions	Classification & Value Positions	Total
1980	4,374,000	5,108	4,082	9,190
1981	4,588,000	5,102	3,837	8,939
1982	4,703,000	4,693	3,748	8,441
1983	5,314,000	4,830	3,595	8,425
1984	6,421,000	4,842	3,541	8,383
1985	6,823,000	4,853	3,197	8,050
1986	7,251,000	4,824	3,031	7,855
1987	8,023,000	5,151	3,413	8,564
1988	8,264,000	5,996	3,807	9,803

NOTES:

1. Formal entries increased 89%; total commercial operations staff increased 6.7%.

SOURCE: U.S. Customs Service data.

TABLE 7

CUSTOMS CARGO PROCESSING OPERATIONS

FY 1980-1986

	Number of Merchandise Releases[1] (000)	Number of Problem Shipments[2] (000)	Number of Containers Entered (000)	Number of Container Inspections (000)
1980			2,800	193
1981			3,100	216
1982	12,579	874	2,738	187
1983	13,371	894	2,949	113
1984	14,482	984	3,570	93
1985	15,061	1,033	3,356	95
1986	16,147	1,153	3,482	98

1. Includes formal and informal, warehouse, in-bond, carnets, and temporary entries.

2. Counts of formal/informal entries with irregularities that reject the entry or prevent release of merchandise because of non-compliance with Customs or other agency requirements.

TABLE 8

TRADE PROGRAM AND DUTIABLE ENTRIES, COMPARED TO BY-PASS

FY 1982-1988

FISCAL YEAR	TOTAL FORMAL ENTRIES (000)	DUTIABLE ENTRIES (000)	DUTIABLE AS PERCENT OF TOTAL	TRADE PROGRAM ENTRIES (000)[1]	TRADE PROGRAM AS PERCENT OF TOTAL	BY-PASS RATE[2]	ENTRIES REVIEWED (NOT BY-PASSED) (000)
1982	4,753	3,148	66.2	2,025	42.6	35	3,089
1983	5,314	3,565	67.1	2,185	41.1	50	2,657
1984	6,421	4,402	68.6	3,624	56.4	60	2,568
1985	6,823	4,743	69.5	3,697	54.2	62	2,593
1986	7,251	5,076	70.0	4,045	55.8	65	2,538
1987	8,023	5,445	67.9	4,493	56 (est.)	70 (est.)	2,407
1988	8,264	5,785	70 (est.)	4,628	56 (est.)	70 (est.)	2,479

1. Trade program entries include quota and monitored, GSP, antidumping, countervailing duty, steel program, and other agency entries.

2. This is the percentage of entries not designated for Import Specialist review. By-pass procedures were established by Customs because entry growth exceeded staff capability.

TABLE 9

AVERAGE U.S. CUSTOMS REVENUE COLLECTION PER FORMAL MERCHANDISE ENTRY

FY 1979-1987

FISCAL YEAR	TOTAL REVENUE COLLECTION (MILLIONS)	TOTAL MERCHANDISE ENTRIES (000)	AVERAGE REVENUE COLLECTION PER ENTRY ($)
1979	8,460	4,384	1,930
1980	8,230	4,374	1,882
1981	9,197	4,588	2,005
1982	9,981	4,703	2,122
1983	9,785	5,314	1,841
1984	12,541	6,421	1,953
1985	13,237	6,823	1,940
1986	14,731	7,251	2,032
1987	16,445	8,023	2,050

SOURCE: "Customs USA", annual issues, and U.S. Customs budget for FY 1989.

TABLE 10

U.S. CUSTOMS SERVICE FY 89 BUDGET REQUEST AND NATI RECOMMENDATION

Salaries and Expenses Account
(Amounts in Thousands of Dollars)

	FY 89 BUDGET REQUEST		NATI RECOMMENDED ADDITION		NATI RECOMMENDED APPROPRIATION	
	Amount	Average Positions	Amount	Average Positions	Amount	Average Positions
Inspection and Control	95,149	1,837	3,842	--	98,991	1,837
Tariff and Trade	--	--	--	--	--	--
Tactical Interdiction	137,336	2,576	5,917	--	143,253	2,576
Investigations	148,124	1,883	4,355	--	152,479	1,883
Commercial Operations	586,294	9,803	+70,137	+1,000	656,431	10,803
SUB-TOTAL	966,903	16,099	+84,251	+1,000	1,051,154	17,099

STATEMENT OF THE AMERICAN CORDAGE AND NETTING MANUFACTURERS

On behalf of the American Cordage and Netting Manufacturers, an incorporated non-profit association dedicated to a strong American Industry, and the Cordage Institute, an incorporated non-profit association dedicated to quality products crafted with pride, both representing domestic manufacturers of cordage and netting, we appreciate this opportunity to present for your consideration a nagging problem related to the lack of appropriate enforcement of a classification determination by the U.S. Customs Service ("Customs").

Background

In response to a Domestic Interested Party Petition (following 19 U.S.C. 1516(b)), Customs issued a ruling (T.D. 85-183, November 24, 1984; copy attached at A) which stated:

> Polypropylene rope and twine made of fibrillated film or strip which in their condition before fibrillation are over one inch in width are properly classifiable under the provisions for cordage of manmade fibers in items 316.55 and 316.58, TSUS.

Since that date various shipments of these products have entered the Customs Territory of the United States classified as plastic n.s.p.f. and not as cordage of manmade fibers. The confusion at the ports was so great we have requested a letter ruling re-affirming the 1984 Customs determination. Meanwhile product from many countries is entering the United States duty and quota free in contravention of congressional directive.

Current Situation

It is our belief that once polyolefin is oriented, fibrillation, a naturally occurring process, takes place (See summary attached at B). Based upon tariff classification history and the Customs ruling, supra, all such items should be classified as cordage.

Unfortunately many shipments of these products are not so classified, but are classified as plastic strip or plastic material not specially provided for ("basket" category 774.58, TSUS). Importers apparently are claiming that unless Customs inspectors can see the fibrillation, the polyolefin is not fibrillated. Balderdash!

Because separate import statistics within the basket category are not made available, we are unable to provide an exact dollar figure for these imports. We do have industry estimates which place the annual volume of misclassified product at 8 million pounds. The correct duty rates for these products imported as cordage are either 8% ad valorem or 12.5 cents per pound plus 15% ad valorem, depending on fiber diameter; imported as plastic, the duty rate is only 5.3% ad valorem. This problem, therefore, results in probable annual losses of approximately $1.5 million to the U.S. Treasury Department in the form of foregone tariff revenue.

Relief Sought

We request this Committee to direct the Customs Service to complete the investigation related to our ruling request and, more importantly, to enforce the determination which they have previously made.

If we can provide further information to assist you in this regard, please do not hesitate to contact us.

ATTACHMENT A

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

19 CFR PART 175

(T.D. 85 - 183)

DECISION ON DOMESTIC INTERESTED PARTY PETITION CONCERNING TARIFF CLASSIFICATION OF POLYPROPYLENE ROPE AND TWINE

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final ~~rule~~ classification decision.

SUMMARY: This document gives notice of a change in the tariff classification of certain polypropylene rope and twine made from fibrillated strips, which are currently classified under the provision for articles of plastics, not specially provided for. This classification carries with it eligibility for an exemption from duty under the Generalized System of Preferences for merchandise produced in beneficiary developing countries. In the case of baler twine produced in certain countries, there is also eligibility for an agricultural implements exemption. Under this change, this type of rope and twine will be classified as cordage of man-made fibers in either of two tariff schedule items depending on the diameter of the cordage. The document also advises that the tariff classification of certain other plastic twine made from fibrillated strips, now classified as cordage, and certain rope made from nonfibrillated plastic strips, now classified as articles of plastics, not specially provided for, will not change.

EFFECTIVE DATE: This decision will be effective as to merchandise entered for consumption or withdrawn from warehouse for consumption on or after 30 days from the date of publication of this decision in the Customs Bulletin.

FOR FURTHER INFORMATION CONTACT:

James C. Hill, Classification and Value Division,
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Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document pertains to the tariff classification of certain imported polypropylene rope and twine. A petition dated November 9, 1982, was filed with Customs under § 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by the Sunshine Cordage Corporation, an American manufacturer of synthetic polypropylene rope. An amended petition was filed on December 14, 1982.

The petitioner contends that the cordage which is the subject of this petition and which is currently classified by Customs under the provision for articles of plastics, not specially provided for, n.s.p.f., in item 774.55, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), is more appropriately classified under the provision for cordage of man-made fibers in items 316.55 or 316.58, TSUS, depending on diameter. The current rate of duty for articles classified under item 774.55, TSUS, is 6.1 percent ad valorem, and the current rate of duty for articles classified under items 316.55 and 316.58, TSUS, is 4 cents per pound plus 10.3 percent ad valorem and 12.5 cents per pound plus 15 percent ad valorem, respectively. The petitioner correctly notes that articles classified under item 774.55, TSUS, can be entered free of duty under the Generalized System of Preferences (GSP) (see sections 10.171-10.178, Customs

Regulations (19 CFR 10.171-10.178)), if imported directly from a beneficiary developing country, whereas articles classified under items 316.55 and 316.58, TSUS, cannot be entered free of duty under the GSP. Classification under either of those items also precludes the agricultural implements exemption in item 870.40, TSUS.

A notice inviting the public to comment on the petition was published in the **Federal Register** on April 29, 1983 (48 FR 19510) and a document correcting certain omissions in that notice was published on May 25, 1983 (48 FR 23513). The original deadline for comments was extended to August 26, 1983, by a **Federal Register** notice published on July 26, 1983 (48 FR 33961). However, since the comments received in response to these notices raised additional issues, another notice was published in the **Federal Register** on March 30, 1984 (49 FR 12801), setting forth these issues and requesting further comments by May 29, 1984. Of the 35 comments received, 28 supported the petition and 7 opposed it.

DESCRIPTION OF MERCHANDISE

The merchandise which is the subject of this document is rope made from extruded plastic film or strips which are over one inch wide, but which due to their special chemical and physical properties, are transformed into fibrillated strips while being twisted into rope strands or which are fibrillated beforehand. In the latter case, fibrillation may be accomplished by a separate twisting or by cutting with pins or knives. The final cordage product, depending on the degree of coarseness of the fibers, resembles polypropylene rope made from monofilaments. The rope for which classification will not be changed is made from twisted plastic nonfibrillated film or strips over one inch wide. The twine for which classification will not be changed is made from a single strand of twisted fibrillated strip which was one inch or less in width before fibrillation.

DISCUSSION OF COMMENTS

Generally: The multiplicity of points made in the responses translate into six major issues, as they relate to the general question of whether the instant merchandise meets the requirement in Headnote 1(a), Part 2, Schedule 3, TSUS, that cordage consist of "assemblages of textile fibers or yarns." Omitted is any discussion concerning the claims made by proponents of the petition that continuation of the lower-rate classifications will have continuing adverse economic impact on the domestic cordage industry and its suppliers and the claims made by opponents that failure of Congress to enact legislation changing the Customs classifications suggests approval of such treatment. Customs cannot consider claims of that nature.

The nonfibrillated strip issue: The first issue is raised by the petitioner's contention that the requirement in Headnote 3(d), Subpart E, Part 1, Schedule 3, TSUS, that plastic strips, in order to be regarded as textile fibers, must be not over one inch in width in their "unfolded, untwisted and uncrimped" condition, applies only to articles made of strips which are not folded, twisted or crimped. However, the plain meaning of the headnote is otherwise. The statutory language is clear and unambiguous and, therefore, must be the "primary source for the determination of legislative intent" Merry Mary Fabrics, Inc. v. United States, 1 CIT 13, 17 (1980). See also Le Jeune, Inc. v. United States, 67 Cust. Ct. 301, C.D. 4289 (1971), in which the tariff classification of crimped strips was evaluated against the headnote one-inch limitation. Accordingly, we find at the outset that the current classification of rope made from nonfibrillated strips over one inch wide is correct.

The one-inch width limitation issue: The second issue raised in the petition and opposing comments is whether Customs has properly made a distinction between cordage made from fibrillated film or strips which, before fibrillation, are over one inch wide and those which are narrower. It is stressed in the opposing comments that fibrillation of strips does not result in anything other than fibrillated strips and, therefore, the one-inch width headnote limitation applicable to strips is applicable to fibrillated strips. This view, however, is not supported by the authorities which we have consulted which rather suggest fibrillation results in a transformed product. For example, fibrillated strips are often referred to as yarns, although that is not conclusive of what constitutes a yarn for tariff classification purposes. See, for example, Encyclopedia of Polymer Science and Technology (1968), vol. 9, p. 410; Modern Textile & Apparel Dictionary by George E. Linton (1973), p. 235; Fiber to Fabric by Bernard P. Corbman (5th ed. 1975), p. 476.

If not strips and therefore not technically within the one-inch width headnote limitation, the opponents to the petition contend it is within the administrative authority of Customs to apply a one-inch width limitation anyhow to establish a standard where objective criteria are called for but are not specifically set forth in TSUS headnotes, and Customs has properly applied such a standard with respect to fibrillated strips. However, arguments promoting standards or product distinctions not otherwise specifically mandated by the TSUS, to create exceptions to broader tariff classification principles otherwise militating against widely disparate tariff treatment for essentially similar merchandise are not persuasive. Nor are the arguments persuasive to the extent they promote a product distinction which for much of the merchandise in question is impractical in its application. For example, for fibrillated strips which are more yarn-like and less coarse or ribbon-like, it is often impossible without a laboratory analysis to determine the width of the film or strips from which the fibrillated product originated. Accordingly, in connection with this review we now find that continuation of the distinction in question as it applies to the tariff classification of cordage is no longer justifiable and must be regarded as an "artificial...distinction ...requiring correction" as dealt with by the court in United States v. Rembrandt Electronics, Inc., 64 CCPA 1, 5, 6, C.A.D. 1175 (1976).

It should be further noted that the artificial one-inch limitation reflects a further misapplication of principles pertinent to determining what material a product is made of. In accordance with General Headnote 9(f)(i), TSUS, an article may be considered as "of" a given material if it is in chief value of that material, and the cost comparison is to be made at the time of final assembly. Kores Manufacturing Corp. v. United States, 3 CIT 178 (1982). However, an assembly in which materials of the same composition are joined cannot be a basis for cost comparisons, and the manufacture of cordage is generally not referred to as an assembly. Therefore, we find that the concept incorporated in the TSUS based on what a product is made "of" must be distinguished from what a product is made from. Accordingly, what the instant merchandise is made of must be determined as of the time of its importation in its condition as imported, and as of that time and in that condition it is made of twisted fibrillated fibers which no longer retain the characteristics of the strip or film from which it was made.

The extrusion or other process issue: The opponents of the petition argue that fibrillated strips are not textile fibers because the provision for fibers made by "other processes" in Headnote 2(b), Subpart E, Part 1, Schedule 3, TSUS, excludes products made by an extrusion since extruded products are otherwise provided for in that headnote, and the intervening fibrillation process disqualifies the merchandise from that provision. However, we find that the intervening fibrillation process warrants the opposite conclusion. It is also contended the Kores decision, supra, stands for the proposition that textile fibers cannot be formed by cutting film. However, the cutting process discounted by the court in that matter occurred after the point in time when there had to be in existence a textile fiber for component-in-chief-value cost comparisons.

The plexiform filament issue: In arguing that fibrillated strips are not subject to limitations applicable to nonfibrillated strips, the proponents of the petition claim that fibrillated strips otherwise qualify as textile fibers by falling within the definition for "plexiform filaments" in Headnote 3(c), Subpart E, Part 1, Schedule 3, TSUS, which is not subject to any dimensional criteria. The opponents disagree. The issue is whether fibrillated strips are "plexiform filaments" as that term is used in the TSUS.

The opponents cite legislative history extensively, the most pertinent part of which was cited and quoted at length in our **Federal Register** notice of March 30, 1984. The most pertinent secondary authority cited was Synthetic Fibers from Petroleum by Marshall Sittig (1967), p. 267. These materials show that the term "plexiform filaments" was coined as a variation of the term "plexifilaments" which was invented for patent application purposes by the inventors of certain man-made fibers produced by what was called dry spinning or flash spinning techniques. The term "plexiform filaments" otherwise has no current recognition in any technical references or treatises or commercial nomenclature.

Accordingly, technical opinions submitted, which both advocate and oppose the view that fibrillated strips constitute plexiform filaments, have no nexus with technical references and therefore must be regarded as conclusions principally influenced by the legislative history and other considerations from which we must draw our conclusions. However, for the purpose of the tariff classification of the instant merchandise, we abstain from drawing any such conclusions at this time because whether or not fibrillated strips constitute plexiform filaments is a moot point.

If fibrillated strips do not qualify as plexiform filaments as described by headnote definition, they would still qualify as textile fibers under Headnote 3(f), Subpart E, Part 1, Schedule 3, TSUS, which encompasses "any other fibrous structure suitable for the manufacture of textiles."

The suitability-for use issue: The issue raised by the foregoing position as to whether fibrillated strips are suitable for the manufacture of textiles is pertinent whether or not they are regarded as plexiform filaments since qualifying as a plexiform filament under the headnote definition is also conditioned on the same suitability-for-use criterion. Accordingly, it is claimed by opponents of the petition that even if, or whether or not, they are regarded as plexiform filaments, polypropylene fibrillated strips are used only in cordage, are never used in textiles and cannot be used in textile machines, and, therefore, do not meet the suitability-for-use-in-the-manufacture-of-textiles requirement. The proponents of the petition, however, state that they are suitable for use in textiles and cite as an example use in backing for rugs. The authorities support the latter position. See, for example, *Fiber to Fabric*, *supra*, where uses in carpet backing are described. See also the *Handbook of Polyolefin Fibres* by J. Gordon Cook (1967), p. 420, where uses on textile machines are also referred to.

The assemblage issue: The final issue is whether single strand twine made of a single fibrillated strip, all of the foregoing considerations to the contrary notwithstanding, must still be excluded from the cordage provisions because it does not consist of "assemblages" of fibers. However, as previously discussed, all of the merchandise must be classified primarily in its condition as imported. Accordingly, even though the manufacture of single strand twine starts with a single strip, its characteristics in its fibrillated condition as imported are those of assemblages of fibers.

TARIFF CLASSIFICATION

After careful analysis of the comments, and further review of the matter, we find that polypropylene rope and twine made of fibrillated film or strips which in their condition before fibrillation are over one inch in width are properly classifiable under the provisions for cordage of man-made fibers in items 316.55 and 316.58, TSUS. Accordingly, the classification of such merchandise under the provision for articles of plastics, n.s.p.f., in item 744.55, TSUS, will be changed, and the petition is allowed to that extent.

The petition is denied to the extent that we find the classification of polypropylene cordage made of nonfibrillated film or strips over one inch wide, under the provision for articles of plastics, n.s.p.f., in item 774.55, TSUS, is correct and will be continued. We also find that the classification of twine made from a single strand of fibrillated polypropylene material, which before fibrillation was one inch or less in width, as cordage, is correct and will be continued. This decision is limited to the described rope and twine and no distinctions will be made between products made by different fibrillation processes or those having different degrees of strand coarseness. Therefore, this decision is not dispositive of the tariff classification of other fibrillated plastic strip or film products. The petitioner may further argue its position on the classification of nonfibrillated rope by filing a notice of intention to contest this decision as provided for in § 175.23, Customs Regulations (19 CFR 175.23). Importers adversely affected by this decision must prosecute their disagreements under the protest procedure in Part 174, Customs Regulations (19 CFR Part 174).

AUTHORITY

This notice is published under the authority of § 516(b), Tariff Act of 1930, as amended (19 U.S.C. 1516(b)), Tariff Act of 1930, and § 175.22(a), Customs Regulations (19 CFR 175.22(a)).

DRAFTING INFORMATION

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Commissioner of Customs
William von Raab

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Approved: OCT 17 1985

David D. Queen

Acting Assistant Secretary of the Treasury
David D. Queen

ATTACHMENT B

SUMMARY OF ACNM POSITION ON FIBRILLATED POLYPROPYLENE CORDAGE*

A. INTRODUCTION

We believe the history and text of the TSUS demonstrate, and Customs Service subsequent rulings clearly express, that "fibrillated strips" are definitely plexiform filaments and are textile man-made fibers for tariff purposes; there is no question that a "fibrillated strip," regardless of degree of fibrillation or when it occurs, which has been twisted and imported as cordage constitutes cordage for tariff classification purposes and further processing to reduce fibrillation, such as ironing, is irrelevant if the polypropylene has been oriented.

B. Production of a Fibrillated Strip

A "fibrillated strip" however derived, from cellulosic or noncellulosic material, is a plexiform filament. "Fibrillated strip" describes an intermediate stage of production for many products like polypropylene cordage. The structure can be described as a fibrous network or plexus - a plexiform filament, which, either alone or in combination with others, may be twisted into cordage or woven to form a textile product.

Fibrillation is a naturally occurring process. To fibrillate a piece of plastic film, then, is to form it into a network or assemblage of small filaments or fibers (fibrils) which exist within the structure, whether or not visible to the natural eye. The orientation process, in one operation, converts the extruded plastic film into a plexiform filament structure with high machine direction strength and virtually no transverse direction strength. The plexiform filaments or monofilament are wound on conventional textile winders.

For certain textile end uses the oriented film can be subjected to a separate fibrillation process to enhance the natural fibrillation which plexiform filaments exhibit. Other finishing processes may be used to lessen the degree or visibility of fibrillation. Additional processing steps may then be added to change the shape or outward appearance of the product; these steps do not, however, have any impact upon the fibrillation which is inherent in orientation.

C. Appropriate Treatment of Cordage Products Made from Fibrillated Polyolefin Under the TSUS

The definitions of both "plexiform filaments" and "strips" were included in the current TSUS when it was enacted in 1963 and they have remained unchanged since that time. The

description of plexiform filament was an attempt by the Commission provide for clear definitions which should not be avoided by "manipulation."

The definition of cordage in the TSUS carries a clear end use designation which cannot be ignored. There has never been any other intended use for the imported products in question than as cordage. They should, therefore, be classified as cordage because they fit the description of cordage as to construction and are intended for end use as cordage.

D. Summary

The language of T.D. 85-183 is clear: "polypropylene rope and twine made of fibrillated film or strip which in their condition before fibrillation are over one inch in width are properly classifiable under the provisions for cordage of manmade fibers in items 316.55 and 316.58, TSUS." Those not fibrillated are not. The issue of "how much fibrillation" is a red herring. inherent in the above-quoted portion of the determination is the historical use provision. These items are used as cordage; they are made of fibrillated polypropylene; therefore they are classifiable under 316.55 and 316.58, depending upon fiber diameter. Any other classification would require a change of practice procedure on behalf of the Customs Service.

CONCLUSION OF HEARINGS

Senator DECONCINI. Thank you, Mr. Topley.

We appreciate your testimony, and we welcome hearing from you on new, innovative approaches in the drug effort, and also on the financial stability of our country. Thank you, sir.

Mr. TOPLEY. Thank you, sir.

Senator DECONCINI. This will conclude our hearings. The subcommittee will proceed now, once the allocations are made, to markup.

We stand in recess subject to the call of the Chair.

[Whereupon, 11:35 a.m., Friday, April 29, the hearings were concluded, and the subcommittee was recessed, to reconvene at the call of the Chair.]

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